

Also, paper to accompany bill for relief of John Elkins—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Delilah Dobines—to the Committee on War Claims.

By Mr. KLINE: Petition of Y. J. Blodgett et al., of West Bethlehem, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LAFEAN: Petition of members of Peach Bottom Council, No. 715, Junior Order United American Mechanics, of Delta, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LESTER: Petition of citizens of Alpharetta, Ga., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. NEVIN: Petition of Oxford Grange, No. 263, Patrons of Husbandry, for Government authority over railways to secure fair freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. PATTERSON of Pennsylvania: Petition of citizens of Friedensburg, Pa., for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. ROBINSON of Indiana: Petition of William G. Huntzinger and 50 others, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. RUPPERT: Petition of the Western New York Horticultural Society, urging an appropriation for extermination of gypsy moth—to the Committee on Agriculture.

By Mr. RYAN: Petition of the members of J. D. Lorenz Division, No. 421, Brotherhood of Locomotive Engineers, against employment of engineers without three years' experience as firemen—to the Committee on Interstate and Foreign Commerce.

By Mr. SCOTT: Petition of citizens of Kansas, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. SAMUEL W. SMITH: Petition of citizens of Owosso, Mich., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. SNOOK: Petition of citizens of Las Vegas and Teshler, N. Mex., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. SOUTHARD: Petition of the National Business League, for repeal of desert-land act, etc.—to the Committee on the Public Lands.

Also, petition of the board of directors of the Receivers and Shippers' Association of Cincinnati, favoring recommendations of the President relative to railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Hardware Association, for repeal of the desert-land act, etc.—to the Committee on the Public Lands.

Also, petition of the Ohio Shippers' Association, for equitable railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Bowling Green, Ohio, for parcels-post regulation—to the Committee on the Post-Office and Post-Roads.

Also, petition of Centennial City Subdivision, No. 457, Brotherhood of Locomotive Engineers, against employment of engineers without three years' experience as firemen—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Vicksburg Battlefield Commission and Committee of Pennsylvania, against abolition of the Commission until 1910—to the Committee on Military Affairs.

By Mr. SPALDING: Resolution of the legislature of North Dakota, for taking water from the Missouri River for irrigating purposes—to the Committee on Irrigation of Arid Lands.

Also, resolution of the legislature of North Dakota, against application of the Millers' Association for a ruling of the Treasury Department under which foreign wheat may be imported in bond under section 30 of the Dingley tariff act—to the Committee on Ways and Means.

Also, resolution of the legislature of North Dakota, against a tax on alcohol used in the arts—to the Committee on Ways and Means.

Also, resolution of the legislature of North Dakota, for \$20,000 for dredging Red River—to the Committee on Rivers and Harbors.

Also, resolution of the legislature of North Dakota, urging appointment of special agents for investigating abuses in fencing public lands—to the Committee on the Public Lands.

Also, resolution of the legislature of North Dakota, for an amendment to the national irrigation law securing money for

drainage purposes—to the Committee on Irrigation of Arid Lands.

Also, resolution of the legislature of North Dakota, against reduction of the tariff on foreign products and on seed wheat from the Canadian northwest—to the Committee on Ways and Means.

By Mr. SULLIVAN of New York: Petition of the Western New York Horticultural Society, for extermination of the gypsy moth—to the Committee on Agriculture.

Also, petition of the Vicksburg Battlefield Commission and Committee of Pennsylvania, against abolition of the Vicksburg Commission until 1910—to the Committee on Military Affairs.

Also, petition of the Great Lakes Tug and Dredge Owners' Protective Association, against sending Government dredges to Lake Michigan—to the Committee on Rivers and Harbors.

By Mr. WILEY of Alabama: Petition of citizens of Sylacauga, Madison County, Chinchilla, and Anniston, Ala., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. ZENOR: Paper to accompany bill for relief of Harlin Howe—to the Committee on Invalid Pensions.

## SENATE.

THURSDAY, March 2, 1905.

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BURROWS, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved, if there be no objection. The Chair hears none.

### CLAIM OF THE STATE OF WISCONSIN.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting an estimate of appropriation to be included in the general deficiency appropriation bill to pay the claim of the State of Wisconsin the amount found to be due that State by the accounting officers of the Treasury, etc., \$725,981.88; which was referred to the Committee on Appropriations, and ordered to be printed.

### INDIAN DEPREDAATION CLAIM.

The PRESIDENT pro tempore laid before the Senate a communication from the Attorney-General, transmitting, in further response to a resolution of the 28th ultimo, an additional report of a judgment rendered by the Court of Claims, in favor of the claimant in an Indian depredation case; which, on motion of Mr. ALLISON, was, with the accompanying paper, referred to the Committee on Appropriations.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 19097. An act to authorize the Missouri Central Railroad Company to construct and maintain a bridge across the Missouri River near the city of St. Charles, State of Missouri; and

H. R. 19150. An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1905, and for prior years, and for other purposes.

The message also announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the following bills:

H. R. 17094. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes; and

H. R. 18329. An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1906.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 18809) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. BURTON, Mr. DOVENER, and Mr. LESTER managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 14622) prohib-

iting the selection of timber lands in lieu of lands in forest reserves, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. LACEY, Mr. MONDELL, and Mr. LIND managers at the conference on the part of the House.

#### PETITIONS AND MEMORIALS.

Mr. KEAN presented memorials of Local Councils Nos. 55, 245, 91, 108, 230, 48, 11, 258, 81, 95, 30, 86, 179, 43, 200, 98, 8, 286, 210, 120, 97, and 27, of Holmeson, Dunellen, Ramsey, Goshen, Windsor, Johnsonburg, Glassboro, Atlantic City, Camden, Bridgeport, Rahway, Newark, Vineland, Princeton, Basking Ridge, Hammonton, Little Silver, Red Bank, Belvidere, Millville, Nutley, Madison, Adelphia, Silverton, Hope, and Inlaytown, all of the Junior Order United American Mechanics, and of 18 citizens of Trenton, and of the Home Missionary Society of the Second Presbyterian Church of Princeton, all in the State of New Jersey, remonstrating against the use of Indian trust funds for sectarian school purposes; which were ordered to lie on the table.

Mr. LONG presented memorials of sundry citizens of Cherokee County, Weir, Logan, Ellis County, Sylvia, Wellington, Pleasanton, Hillsboro, Providence, Sawyer, Clyde, Barber County, Independence, Rush County, Osborne and Smith counties, Marquette, Manhattan, Council Grove, Pratt County, Lane, Gove and Scott counties, Leavenworth, Thayer, Argonia, Elk City, Franklin County, Salina, Lewis, Ottawa, Burton, Kansas City, Wichita, Bird City, Abilene, and Ozawkie, all in the State of Kansas, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

He also presented a petition of sundry citizens of Sabetha, Kans., praying for Government control of railway rates and the establishment of a parcels-post and check currency; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of Barcher City Subdivision, No. 462, of Arkansas City; Herington Subdivision, No. 261, of Herington; Arkansas Valley Subdivision, No. 252, of Newton; Mickey Free Subdivision, No. 527, of Pittsburg; Wichita Subdivision, No. 364, of Wichita; Desota Subdivision, No. 234, of Topeka, and L. W. Parr Subdivision, No. 396, all of the Brotherhood of Locomotive Engineers, in the State of Kansas, praying for the enactment of legislation regulating the requirements of locomotive engineers and firemen; which were referred to the Committee on Interstate Commerce.

Mr. STONE presented memorials of sundry citizens of Scotland County, Appleton City, Carthage, St. Joseph, Queen City, Polk County, Pettis County, and Flory County, all in the State of Missouri, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. TELLER presented memorials of sundry citizens of Rio Grande County, Vernon, and Wray, all in the State of Colorado, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

He also presented a petition of sundry citizens of Sterling, Colo., praying for the enactment of legislation providing for the extension of the homestead provision from 160 to 640 acres; which was referred to the Committee on Public Lands.

Mr. DEPEW presented a petition of the American Hardware Manufacturing Association of New York City, praying for the repeal of the timber and stone law, and also for the commutation clause in the homestead act; which was referred to the Committee on Public Lands.

He also presented a petition of sundry citizens of Livingston, N. Y., praying for the enactment of legislation to recognize the authority of Christ and of the law of God in the Constitution of the United States; which was referred to the Committee on the Judiciary.

He also presented a memorial of the Chautauqua Pomona Grange, Patrons of Husbandry, of Jamestown, N. Y., remonstrating against the enactment of legislation to restrict the power and influence of the judiciary; which was referred to the Committee on the Judiciary.

He also presented a petition of Chautauqua Pomona Grange, Patrons of Husbandry, of Jamestown, N. Y., praying for the enactment of legislation to construct a ship canal from the Great Lakes to the sea; which was referred to the Committee on Commerce.

He also presented memorials of sundry citizens of Alfred, Angola, Bear Lake, Buffalo, Cleveland, Chestertown, Elko,

Ellicottville, Elmira, Fulton, Olean, Pulaski, Natural Bridge, Niagara Falls, and Rochester, all in the State of New York, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

He also presented a memorial of Susquehanna Lodge, No. 71, Brotherhood of Locomotive Firemen, of Oneonta, N. Y., and a memorial of Otsego Division, No. 58, Brotherhood of Locomotive Engineers, of Oneonta, N. Y., remonstrating against the passage of the so-called "Esch-Townsend railroad-rate bill;" which were referred to the Committee on Interstate Commerce.

He also presented petitions of J. M. Willson, of Cattaraugus; of Cataract Lodge, No. 639, Brotherhood of Railroad Trainmen, of Niagara Falls, and of J. J. Manning Lodge, No. 472, Brotherhood of Locomotive Firemen, of Buffalo, all in the State of New York, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

He also presented petitions of Local Subdivisions Nos. 35, 292, 311, 421, 59, 41, 434, and 87, of Rochester, Middletown, Binghamton, East Buffalo, Rensselaer, Elmira, and Troy, all of the Brotherhood of Locomotive Engineers, in the State of New York, praying for the enactment of legislation to regulate certain requirements of locomotive engineers and firemen; which were referred to the Committee on Interstate Commerce.

Mr. DICK presented a petition of the National Society of the Daughters of 1812, of the State of Ohio, praying for the enactment of legislation to establish a military park on St. Michaels Island and for the erection of a monument thereon; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Vicksburg Battlefield Commission and committees, of Philadelphia, Pa., remonstrating against the enactment of legislation to abolish the National Military Park Commissions; which was referred to the Committee on Military Affairs.

He also presented a petition of Short Creek Monthly Meeting of Friends, of Emerson, Ohio, praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a memorial of the Ancient Order of Hibernians, of Cleveland, Ohio, remonstrating against the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Coterie Club, of Fremont, Ohio, praying for an investigation of the charges made and fled against Hon. REED SMOOR, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented a petition of Bricklayers Local Union No. 22, American Federation of Labor, of Dayton, Ohio, praying for the enactment of legislation to restrict the immigration of aliens into the United States; which was referred to the Committee on Immigration.

He also presented petitions of the National Association State Dairy and Food Departments, of Lexington, Ky.; of Schenbram Grange, No. 1455, Patrons of Husbandry, of New Philadelphia; of the East Side Literary Club, of Lorain, in the State of Ohio, and of the United States Brewers' Association of New York City, praying for the passage of the so-called "pure-food bill;" which were ordered to lie on the table.

He also presented a petition of the National Business League of Chicago, Ill., praying for the enactment of legislation to repeal the desert-land law and the commutation clause in the homestead act; which was referred to the Committee on Public Lands.

He also presented a petition of Local Division No. 134, Order of Railway Conductors, of Bellevue, Ohio, praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented petitions of sundry citizens of Warren and Mechanicsburg; of Fairview Grange, Patrons of Husbandry, of Hicksville, and of Stark County Grange, Patrons of Husbandry, of Beach City, all in the State of Ohio, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

He also presented a petition of William H. Gibson Post, No. 31, Department of Ohio, Grand Army of the Republic, of Tiffin, Ohio, praying for the enactment of legislation to modify and simplify the pension laws of the United States; which was referred to the Committee on Pensions.

He also presented petitions of Ottokee Grange, Patrons of Husbandry, of Wauseon; of the Farmers' Institute of Cortland;



of Local Grange No. 1568, Patrons of Husbandry, of Lisbon, and of Local Grange, Patrons of Husbandry, of Middlefield, all in the State of Ohio, praying for the enactment of legislation to establish a parcels-post and postal savings bank; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented memorials of sundry citizens of Deshler, Springfield, Defiance, Broughton, Lorain, Canton, Downing, Huron County, Erie County, Coshocton, and Clark, all in the State of Ohio, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. GALLINGER presented memorials of sundry citizens of Afton, Fame, and Sallisaw, in the Indian Territory; of sundry citizens of Pitkin, Delta, Salida, and Manzaneras, in the State of Colorado; of sundry citizens of Prescott, Tucson, and Flagstaff, in Arizona; of sundry citizens of Washington and Nashua, N. H.; of sundry citizens of Boise, Idaho; of sundry citizens of Albuquerque, Las Vegas, Farmington, and San Juan County, N. Mex.; of 70 citizens of Washington, D. C., and of 632 citizens of Oklahoma Territory, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. BATE presented memorials of 141 citizens of Nashville, Tenn., remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. BALL presented the memorials of sundry citizens of Wilmington, Del., remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. BEVERIDGE presented a petition of sundry citizens of Albion and Kendallville, in the State of Indiana, praying for the Government control of railroad rates; which was referred to the Committee on Interstate Commerce.

He also presented petitions of Huntington Subdivision, No. 343, Brotherhood of Locomotive Engineers, of Princeton; of Fort Wayne Subdivision, No. 12, Brotherhood of Locomotive Engineers, of Fort Wayne; of Jefferson Subdivision, No. 154, Brotherhood of Locomotive Engineers, of Howell; of Lafayette Subdivision, No. 7, Brotherhood of Locomotive Engineers, of Lafayette; of Lake Michigan Subdivision, No. 300, Brotherhood of Locomotive Engineers, of Michigan City, and of Eel River Subdivision, No. 612, Brotherhood of Locomotive Engineers, of Logansport, all in the State of Indiana, praying for the enactment of legislation to prohibit the employment of men as locomotive engineers who have not had three years' experience as locomotive firemen or one year's experience as locomotive engineers; which were referred to the Committee on Interstate Commerce.

Mr. FOSTER of Washington presented memorials of Cape Horn Grange, No. 194, Patrons of Husbandry, of Cape Horn, Wash., and of Pomona Grange, No. 1, Patrons of Husbandry, of Columbia, Wash., remonstrating against the repeal of the present oleomargarine law; which were referred to the Committee on Agriculture and Forestry.

Mr. NELSON presented the memorials of sundry citizens of Morrison County, Henning County, Minneapolis, Burtrum, Monticello, Rock Creek, Lake City, Danvers, and of Wasioja, all in the State of Minnesota, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. DRYDEN presented the memorial of Bishop James A. McFaul, of Trenton, N. J., remonstrating against the use of Indian trust funds for sectarian school purposes; which was ordered to lie on the table.

He also presented a petition of sundry shippers of freight in vessels to and from Millville, N. J., praying that an appropriation be made for the deepening of the channel of the Maurice River, New Jersey; which was referred to the Committee on Commerce.

He also presented a memorial of the Essex Trades Council, of Newark, N. J., and a memorial of Local Union No. 138, Cigar Makers' International Union, of Newark, N. J., remonstrating against any reduction of the duty on cigars and tobacco imported from the Philippines; which were ordered to lie on the table.

Mr. DRYDEN presented memorials of sundry citizens of Hoken, of Local Councils Nos. 190, 98, 272, 92, 141, 280, 33, 91, 66, 187, 233, 81, 290, 62, 107, 330, 160, 81, 146, 273, 651, 85, 216, 58, 95, 530, 40, 142, 71, 72, 61, 89, 157, 123, 180, 154, 33, 125, 204, 64,

107, 62, 108, 162, 120, 23, 41, 252, 212, 71, 98, 116, 212, 145, 251, 229, 131, 202, 132, 82, 63, 308, 280, 50, 140, 126, 136, 167, 285, 62, 120, 53, 180, 206, and 121, all of the Junior Order of United American Mechanics, in the State of New Jersey, remonstrating against the use of Indian trust funds for sectarian school purposes; which were ordered to lie on the table.

Mr. McCOMAS presented memorials of sundry citizens of Fords Store and Winchester, in the State of Maryland, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

He also presented a petition of sundry citizens of Baltimore, Md., praying for the enactment of legislation to incorporate the American Medical Association; which was referred to the Committee on Education and Labor.

LUKE C. STRIDER.

Mr. ALLISON. I present a communication from the Commissioners of the District of Columbia, transmitting a letter from the corporation counsel inclosing a short copy of a judgment for \$23.65 against the auditor of the District at the suit of Luke C. Strider. I move that the communication and accompanying papers be printed, and referred to the Committee on Appropriations.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. WARREN, from the Committee on Claims, to whom was referred the bill (S. 3782) to carry into effect the findings of the Court of Claims in Congressional case No. 23193, the Washington Loan and Trust Company, legal representative of the estate of Aaron Van Camp, deceased, and Mary M. U. Chapin and Rua P. Chapin, legal representatives of the estate of Virginus P. Chapin, deceased, against the United States, reported it with amendments, and submitted a report thereon.

Mr. LONG, from the Committee on Indian Depredations, to whom was referred the bill (S. 5985) to provide for the payment of the volunteers who rendered service to the Territory of Oregon in the Cayuse Indian war of 1847 and 1848, reported it with amendments, and submitted a report thereon.

Mr. KEAN, from the Committee on Interstate Commerce, to whom was referred the bill (H. R. 18754) to prohibit interstate transportation of insect pests, and the use of the United States mails for that purpose, asked to be discharged from its further consideration, and that it be referred to the Committee on Agriculture and Forestry; which was agreed to.

Mr. CLARK of Montana, from the Committee on Indian Affairs, to whom was referred the bill (S. 6819) for the relief of the executors of the estate of Charles E. Conrad, deceased, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

#### SENATOR FROM UTAH.

Mr. BURROWS, from the Committee on Privileges and Elections, reported the following order; which was considered by unanimous consent, and agreed to:

*Ordered*, That there be printed for the use of the Senate 1,000 copies of the hearings before the Committee on Privileges and Elections in the matter of the protests against the right of the Hon. REED SMOOT, a Senator from the State of Utah, to hold his seat, and that the "usual number" be not printed.

#### COMPILATION OF FOREST LAWS.

Mr. PLATT of New York, from the Committee on Printing, to whom was referred the concurrent resolution submitted by Mr. PROCTOR on the 28th ultimo, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed and bound in cloth 15,000 copies of Bulletin No. 57 of the Bureau of Forestry, being a compilation of all Federal and State forest laws, of which 2,000 shall be for the use of the Senate, 3,000 for the use of the House of Representatives, and 10,000 for the use of the Department of Agriculture.

#### TREATIES AND CONVENTIONS WITH CHINA AND KOREA.

Mr. PLATT of New York, from the Committee on Printing, to whom was referred the concurrent resolution submitted by Mr. LODGE on the 28th ultimo, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed 500 copies of the volume entitled "Treaties and Conventions Concerning China and Korea," of which 200 copies shall be for the use of the Senate and 300 copies for the use of the House of Representatives.

#### AMERICAN ACADEMY IN ROME.

Mr. DRYDEN. I am directed by the Committee on the Library, to whom was referred the bill (H. R. 19052) to incorporate the American Academy in Rome, to report it favorably

without amendment, and I ask unanimous consent that the bill may receive immediate consideration.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### RECLAMATION FUND.

Mr. BARD. I am directed by the Committee on Irrigation and Reclamation of Arid Lands, to whom was referred the bill (H. R. 18528) to provide for the covering into the reclamation fund certain proceeds of sales of property purchased by the reclamation fund, to report it favorably without amendment, and I ask unanimous consent for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### YELLOWSTONE RIVER DAMS.

Mr. BARD. I am directed by the Committee on Irrigation and Reclamation of Arid Lands, to whom was referred the bill (H. R. 19118) to authorize the Secretary of the Interior to construct dams across the Yellowstone River, in Montana, in connection with irrigation work, to report it favorably without amendment. It is a very short bill, and it will take but a moment to dispose of it. I ask for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PUBLIC BUILDING AT NATCHITOCHES, LA.

Mr. WARREN. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 7284) to authorize the Secretary of the Treasury to exchange the site for a public building at Natchitoches, La., to report it favorably without amendment. It is a very short bill, costs no money, and I ask for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendments, ordered to be engrossed for a third reading, read the third time, and passed.

#### LANDS IN TACOMA, WASH.

Mr. HANSBROUGH. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 17019) granting certain lands to the city of Tacoma, in the State of Washington, for use as a public park, to report it favorably. It is a short bill, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ISLAND IN BARTLETT LAKE, MINNESOTA.

Mr. NELSON. On behalf of the Committee on Public Lands I report back favorably and ask the present consideration of the bill (H. R. 11218) setting aside a certain island in Bartlett Lake, Minnesota, as a park and forest reserve.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### RESURVEY OF TOWNSHIPS IN NEBRASKA.

Mr. DIETRICH. From the Committee on Public Lands I report back without amendment the bill (H. R. 18752) for the resurvey of certain townships in the counties of Rock and Brown, in the State of Nebraska, and I ask for its immediate consideration.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### INVESTIGATION BY COMMITTEE ON FINANCE.

Mr. ALLISON, from the Committee on Finance, reported the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Committee on Finance be, and they are hereby, authorized and directed, by subcommittee or otherwise, to make an investigation of internal-revenue, customs, currency, and coinage matters, and to report from time to time to the Senate the result thereof; and for this purpose they are authorized to sit, by subcommittee or otherwise, during the recess or sessions of the Senate, at such times and places as they may deem advisable, to send for persons and papers, to administer oaths, and to employ such stenographic, clerical, and other assistance as may be necessary, the expense of such investigation to be paid from the contingent fund of the Senate.

#### MAINTENANCE OF COMMERCIAL CHANNELS.

Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate to report with an amendment the resolution submitted by the Senator from Alabama [Mr. MORGAN] yesterday, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution, as follows:

*Resolved by the Senate*, That a select committee of three Senators be appointed by the President pro tempore of the Senate, from States intersected by the Tennessee River, to examine into the navigation of the Tennessee River, etc., and to take into consideration the report of the Secretary of War on that subject made to the Senate at this session of Congress; and that said committee shall have leave to sit in the recess of the Senate at such places in the vicinity of said river as they may think necessary.

Said committee shall have power to send for persons and papers and to examine witnesses on oath, and may appoint a secretary and employ a stenographer. And the lawful expenses of such committee and its employees and of witnesses shall be paid, on the certificate of the chairman thereof, out of the contingent fund of the Senate.

The amendment of the Committee to Audit and Control the Contingent Expenses of the Senate was to insert at the end the words "not to exceed \$1,000."

The amendment was agreed to.

The resolution as amended was agreed to.

The PRESIDENT pro tempore appointed as the subcommittee Mr. MORGAN, Mr. CARMACK, and Mr. OVERMAN.

#### RECESS OF THE SENATE, ETC.

Mr. SPOONER, from the Committee on the Judiciary, who were instructed by a resolution of the Senate of December 11, 1903, to report what constitutes a "recess of the Senate," and what are the powers and limitations of the Executive in making appointments in such cases, submitted the following report:

The Committee on the Judiciary, to whom was referred the following resolution (being Resolution No. 111, Fifty-eighth Congress, second session, submitted by Mr. TILLMAN December 11, 1903—

Whereas Article II, section 2, of the Constitution of the United States provides:

"The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate and, by and with the advice and consent of the Senate, shall appoint \* \* \* all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law;"

And further:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session;"

And

Whereas it is known that certain officers appointed during the recess of Congress from March fourth last to November ninth, and whose appointments were not confirmed by the Senate, are now in possession of and exercising the powers and functions of said officers: Be it

*Resolved*, That the Judiciary Committee of the Senate be, and it is hereby, authorized and instructed to report to the Senate—

What constitutes a "recess of the Senate," and what are the powers and limitations of the Executive in making appointments in such cases—having considered the same, presents the following report:

The Senate has instructed this committee, by resolution, to report what in its opinion constitutes a recess of the Senate under the provisions of Article II, section 2, of the Constitution.

The word "recess" is one of ordinary, not technical, signification, and it is evidently used in the constitutional provision in its common and popular sense. It means in Article II, above referred to, precisely what it means in Article III, in which it is again used. Conferring power upon the executive of a State to make temporary appointment of a Senator, it says:

"And if vacancies happen, by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies."

It means just what was meant by it in the Articles of Confederation, in which it is found in the following provision:

"The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress, to be denominated a committee of the States, and to consist of one delegate from each State."

It was evidently intended by the framers of the Constitution that it should mean something real, not something imaginary; something actual, not something fictitious. They used the word as the mass of mankind then understood it and now understand it. It means, in our judgment, in this connection the period of time when the Senate is not sitting in regular or extraordinary session as a branch of the Congress, or in extraordinary session for the discharge of executive functions; when its members owe no duty of attendance; when its Chamber is empty; when, because of its absence, it can not receive communications from the President or participate as a body in making appointments.

It is easy for a lawyer to comprehend the words "constructive appropriation," "constructive notice," "constructive fraud," "constructive contempt," "constructive damages," "constructive malice," but it would seem quite difficult for lawyer or layman to comprehend a "constructive recess" of Congress, or of the State legislature, or of the Senate. It would seem quite as natural that there should be a "constructive session" of Congress or of the Senate as a "constructive recess." We think there can not be any "constructive end" of a session or a "constructive beginning" of a session of Congress or of the Senate.

The Constitution clearly confers upon the President the power to nominate and, by and with the advice and consent of the Senate, to appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, "and all other officers of the United States whose



appointments are not herein otherwise provided for, and which shall be established by law." Congress in the same clause is empowered by law to "vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

"Human intention can not be made plainer by human language" than it is made clear by the Constitution that except as to the "inferior officers" referred to no Federal officer can be appointed save by and with the advice and consent of the Senate.

But it was obvious that without some provision for temporary appointments to fill up vacancies which might happen while the Senate was not in session to participate in making appointments grave inconvenience and harm to the public interest would ensue. To meet this difficulty it was by common consent provided that—

the President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

This is essentially a proviso to the provision relative to appointments by and with the advice and consent of the Senate. It was carefully devised so as to accomplish the purpose in view, without in the slightest degree changing the policy of the Constitution, that such appointments are only to be made with the participation of the Senate. Its sole purpose was to render it certain that at all times there should be, whether the Senate was in session or not, an officer for every office, entitled to discharge the duties thereof.

It can not by any possibility be deemed within the intent of the Constitution that when the Senate is in position to receive a nomination by the President, and, therefore, to exercise its function of advice and consent, the President can issue, without such advice and consent, commissions which will be lawful warrant for the assumption of the duties of a Federal office.

The framers of the Constitution were providing against a real danger to the public interest, not an imaginary one. They had in mind a period of time during which it would be harmful if an office were not filled; not a constructive, inferred, or imputed recess, as opposed to an actual one.

They gave power to issue these commissions only where a vacancy (1) happened, (2) during a recess of the Senate, and they specifically provided that the commission shall expire at the end of the next session of the Senate.

The commissions granted during the recess prior to the convening of Congress in extraordinary session November 9, 1903, of course furnished lawful warrant for the assumption by the persons named therein of the duties of the offices to which they were, respectively, commissioned. Their names were regularly sent to the Senate thereafter. If confirmed, of course they would hold under appointment initiated by the nomination without any regard to the recess commission. If not confirmed, their right to hold under the recess commission absolutely ended at 12 o'clock meridian on the 7th of December, 1903, for at that hour the extraordinary session ended and the regular session of Congress began by operation of law. An extraordinary session and a regular session can not coexist, and the beginning of the regular session at 12 o'clock was the end of the extraordinary session; not a constructive end of it, but an actual end of it. At 12 o'clock December 7 the President pro tempore of the Senate said:

"Senators, the hour provided by law for the meeting of the first regular session of the Fifty-eighth Congress having arrived, I declare the extraordinary session adjourned without day."

Aside from the statement upon the record that the "hour had struck" which marked the ending of the one and the beginning of the other, the declaration of the President pro tempore was without efficacy. It did not operate to adjourn without day either the Congress or the Senate. Under the law the arrival of the hour did both.

The constitutional provision that the commission shall expire at the end of the next session is self-executing, and when the session expires the right to hold under the commission expires with it. If there be no appreciable point of time between the end of one session and the beginning of another, since of necessity one ends and another begins, the tenure under the commission as absolutely terminates as if months of recess supervened.

There was no time during which the President might not, had he chosen, have sent nominations to the Senate. It was in session to receive any nomination or message he might communicate. There was no "recess" within the letter or spirit of the Constitution, and therefore there was no right to issue commissions and induct the officers commissioned into office.

The theory of "constructive recess" constitutes a heavy draft upon the imagination, for it involves a constructive ending of one session, a constructive beginning of another, and a constructive recess between the two.

Senate Document No. 147, Fifty-eighth Congress, second session, is a letter from the Hon. Elihu Root, then Secretary of War, which makes clear the embarrassments of the situation, and presents both views of the constitutional question we are considering, the Secretary of War, confessedly one of the ablest lawyers of the country, frankly stating the strong inclination of his mind to the view which we adopt, that the Constitution means a real recess, not a constructive one.

The President, evidently acting under the advice of the Secretary of War, pursued the course which would be adapted to whichever view might ultimately be held by the accounting officers of the Treasury and the courts to be the correct one.

Senator NELSON dissents from so much of the foregoing report as relates to the matter of commissions granted during the recess prior to the convening of Congress in extraordinary session November 9, 1903, as not called for by the resolution.

#### BILLS INTRODUCED.

Mr. SIMMONS introduced a bill (S. 7288) for the relief of the heirs of Joseph H. Etheridge and William D. Etheridge; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. PENROSE (for Mr. KNOX) introduced a bill (S. 7289) for the relief of Snowdon & Mason; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 7290) granting an increase of pension to Charles C. Jones; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MORGAN introduced a bill (S. 7291) for the relief of the heirs of Richard R. Mosley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 7292) for the relief of Cora B. Thomas; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. FORAKER introduced a bill (S. 7293) for the relief of O. P. Cobb and others; which was read twice by its title, and referred to the Committee on Claims.

Mr. McLAURIN introduced a bill (S. 7294) for the relief of the heirs and assignees of Thomas Whaley and wife; which was read twice by its title, and referred to the Committee on Private Land Claims.

#### AMENDMENT TO DEFICIENCY APPROPRIATION BILL.

Mr. NELSON submitted an amendment proposing to appropriate \$700.63 for survey of wagon road from Valdez to Fort Egbert, Alaska, and also proposing to appropriate \$431.15 for survey of the military trail from the Yukon River at Coldfoot, Alaska, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

#### HANNA & BUDLONG.

Mr. LODGE submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the sum of \$18.12 be paid from the contingent fund of the Senate to Hanna & Budlong for work in reporting stenographically the proceedings of the Philippine Committee on February 23, 1903, making fourteen and a half pages at \$1.25 a page.

#### LABOR TROUBLES IN COLORADO.

Mr. PATTERSON. I offer a resolution, and I ask for its present consideration.

The resolution was read, as follows:

*Resolved*, That the Public Printer be, and he is hereby, authorized and directed to print as many additional copies of Senate Document No. 122 as may come within a cost of \$500, for the use of the Senate.

Mr. KEAN. What is the document?

Mr. PATTERSON. It relates to the report communicated to the Senate by the President several weeks ago. It is the official report on the labor troubles in Colorado. There is a very general interest in the report.

Mr. KEAN. In Colorado?

Mr. PATTERSON. And throughout all the West. Some Senators, at least, are constantly receiving requests for copies of the report and there are none with which to meet the demand.

Mr. KEAN. I do not object to the resolution. Senators have objected to requests that I made; that is all.

Mr. PATTERSON. I certainly did not.

Mr. KEAN. I have no objection to the resolution.

The resolution was considered by unanimous consent and agreed to.

#### LEAVE OF ABSENCE.

Mr. PENROSE. On behalf of my colleague [Mr. KNOX], who has been ordered to Florida by his physician on account of a relapse in his recent sickness, I ask that leave of absence be granted to him for the remainder of the session.

The PRESIDENT pro tempore. The Chair hears no objection, and leave is granted.

#### SALARIES OF POSTMASTERS IN COLORADO.

Mr. TELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved by the Senate*, That the Postmaster-General be, and hereby is, directed to report to the Senate at the next session of Congress the amount of salary required to be paid to each of the postmasters in the State of Colorado named on the memorandum schedule hereto attached, or to their heirs, for services as postmasters in each biennial term specified on such memorandum schedule, in order to make effective sections 473, 474, and 475 of the postal regulations of 1866, and the act of June 12, 1866, section 8, and the act of March 3, 1883, as construed by Postmaster-General Gresham in an order dated June 9, 1883, addressed to Hon. Frank Hatton, First Assistant Postmaster-General, and in a declaration as to the intent, meaning, and requirement of said statutes furnished for publication to the press through Chief Clerk Walker on February 16, 1884, and printed as Exhibit A, Senate Executive Document No. 146, Forty-ninth Congress, first session.

#### STATEHOOD BILL.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution submitted yesterday by Mr. BAILEY, as follows:

*Resolved*, That the order heretofore made by the Senate insisting on its amendments to the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State

government, and be admitted into the Union on an equal footing with the original States, and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and agreeing to a conference be rescinded; that the conferees heretofore appointed on the part of the Senate be discharged from further duty in that behalf, and that the Senate recede from its amendment, on page 23, numbered 46, and its amendment, on page 42, beginning with line 9, down to and including line 24, on page 59 in the print of February 5, 1905, and insist upon its other amendments to the said bill.

Mr. BAILEY. Mr. President, I understand there is a bare hope of an agreement, or at least a report, of the conference committee, and so long as there is a hope of that I am not disposed to press this resolution. I ask that it may simply lie on the table.

The PRESIDENT pro tempore. The resolution will lie on the table.

YING HSING WEN AND TING CHIA CHEN.

Mr. WARREN. I ask consent to call up House joint resolution 222.

Mr. ALLISON. I shall object at this time to any business that will occupy time.

Mr. WARREN. I will recall the joint resolution if it is to take any time. It is only a few lines.

The PRESIDENT pro tempore. The joint resolution will be read.

The Secretary read the joint resolution (H. J. Res. 222) permitting Ying Hsing Wen and Ting Chia Chen, of China, to receive instruction at the Military Academy at West Point.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. BACON. Mr. President, I might ultimately give consent to it, but it will certainly lead to some debate. I can not consent that it shall be passed on the condition that nothing shall be said.

The PRESIDENT pro tempore. Objection is made.

Mr. ALLISON. The joint resolution has gone over?

Mr. BACON. I wish to say that if there were time for discussion I would not object, but upon the limitation suggested by the Senator from Iowa I could not consent to present consideration.

Mr. WARREN. I withdraw the request.

HOUSE BILLS REFERRED.

H. R. 19097. An act to authorize the Missouri Central Railroad Company to construct and maintain a bridge across the Missouri River near the City of St. Charles, State of Missouri; was read twice by its title, and referred to the Committee on Commerce.

H. R. 19150. An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1905, and for prior years, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

TIMBER LANDS IN FOREST RESERVES.

The PRESIDING OFFICER (Mr. GALLINGER in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 14622) prohibiting the selection of timber lands in lieu of lands in forest reserves, and asking for a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HANSBROUGH. I move that the Senate insist on its amendments disagreed to by the House of Representatives, and agree to the conference asked for by the House.

The motion was agreed to.

By unanimous consent, the Presiding Officer was authorized to appoint the conferees on the part of the Senate, and Mr. HANSBROUGH, Mr. NELSON, and Mr. BERRY were appointed.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. ALLISON. I ask the Senate to proceed to the consideration of the sundry civil appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 18969) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes.

Mr. FULTON. I ask the Senator from Iowa to yield to me to call up the bill (H. R. 18586) to aid in quieting title to certain lands within the Klamath Indian Reservation in the State of Oregon. It is very important to get it through.

Mr. ALLISON. I am under some obligation, reaching over from last night, to the Senator from Oregon. I will yield to him, and then I can not yield further.

KLAMATH INDIAN RESERVATION LANDS.

Mr. FULTON. I ask the Senate to proceed to the consideration of the bill (H. R. 18586) to aid in quieting title to certain

lands within the Klamath Indian Reservation in the State of Oregon.

The Secretary read the bill.

Mr. BERRY. I ask the Senator from Oregon to explain the bill.

Mr. SCOTT. I should like the Senator from Oregon to state what the bill is. We could not hear it as it was read.

Mr. FULTON. The bill passed the House and was reported unanimously from the Public Lands Committee of the Senate. It simply authorizes the Secretary of the Interior to investigate and ascertain on what terms a settlement may be made.

Mr. BERRY. That is all right. I did not understand what the bill is.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 18969) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes.

Mr. PLATT of Connecticut. Last evening there was some question about an amendment on page 142. I have prepared an amendment which I think meets the necessities of the case and will be acceptable to the chairman of the committee.

Near the bottom of page 142, line 24, after the words "United States," strike out "expenses of judges of the circuit courts of appeals, not to exceed \$10 per day" and in lieu thereof insert:

Of reasonable expenses actually incurred for travel and attendance of justices or judges who shall attend the circuit court of appeals held at any other place than where they reside, not to exceed \$10 per day.

Mr. ALLISON. The Senator from Connecticut offers an amendment which will be read.

The SECRETARY. On page 142, line 24, after the words "United States," strike out the following words:

Expenses of judges of the circuit courts of appeals, not to exceed \$10 per day—

And insert:

Of reasonable expenses actually incurred for travel and attendance of justices or judges who shall attend the circuit court of appeals held at any other place than where they reside, not to exceed \$10 a day.

Mr. ALLISON. I do not object to the amendment, but I suggest to the Senator from Connecticut, in as much as he has in a measure changed the phraseology under which these expenses are paid, there ought to be added to the amendment the provision that is found in line 22 as respects district judges.

Mr. PLATT of Connecticut. I think not, Mr. President.

Mr. ALLISON. I have looked it up very carefully, and I think it ought to be for their protection inserted, if there is to be a change of law, as the Senator's amendment provides for its change.

Mr. PLATT of Connecticut. There is no change of the law. I have followed the exact language of the law which provides for the payment of such expenses in the act of 1891 creating the circuit court of appeals, and if in conference it is found to be necessary to add to it it can easily be arranged; but this clause has always been administered in the Attorney-General's Office, just as the clause which precedes it.

Mr. ALLISON. I merely desire the insertion of the same phraseology to make it certain.

Mr. PLATT of Connecticut. There is no objection to it, but it is unnecessary.

Mr. ALLISON. If the Senator has investigated and thinks it is unnecessary—I think it is necessary, but I will defer to him.

Mr. BERRY. What is the proposition? We can not hear.

Mr. PLATT of Connecticut. I will say, further, that I offered the amendment after consultation with the Attorney-General and the officers in his Department, who have the administration of the law; and, as that portion has already been once inserted which relates to district judges directed to hold court outside of their districts, I do not think it is important in this case. However, if the chairman having charge of the bill thinks it is important it can easily be arranged in conference.

Mr. CULLOM. I should like to make an inquiry of the Senator from Connecticut. As I understand it, the purpose of this amendment is to give judges going outside of the place where they hold court at home the expenses incurred on account of going away from home.

Mr. PLATT of Connecticut. They have it now.

Mr. CULLOM. Let us see whether they have it. A district judge holds court in three or four places in his district. Does he get any additional money for the expense where he holds court away from home or goes to other places in the district? I want to know whether this provision will allow a district



judge to claim any expense when he goes to other places than his own home to hold court in his own district.

Mr. PLATT of Connecticut. It will not.

Mr. CULLOM. That is what I supposed. I think it ought. I think the same reason that prevails with reference to a circuit or a district judge going out of his district should apply when he holds court in other places in the district away from his own home.

Mr. PLATT of Connecticut. That does not happen to be the law.

Mr. CULLOM. I know it does not.

Mr. PLATT of Connecticut. The other is the law.

Mr. CULLOM. But we are making law now for these people.

Mr. PLATT of Connecticut. We are not making law.

Mr. CULLOM. We are changing the law so as to make it certain what the law is, at any rate; and while we are doing it, why is it not right that a district judge who holds court, say, in three or four places in his own district shall not pay his actual expenses going to and while holding court in other places away from his home?

Mr. PLATT of Connecticut. That is a pretty large question, and raises what would—

The PRESIDENT pro tempore. It is very necessary, indeed, the last day or two of a session that perfect order shall be preserved in the Senate, for important matters are always under consideration. The Chair hopes he will not be obliged to remind Senators that conversation must not take place on the floor of the Senate so as to disturb the proceedings.

Mr. PLATT of Connecticut. Mr. President, never since the foundation of the Government has there been any law, to my knowledge, which would give to a district judge who held court away from his residence at one or more places in his district any compensation by way of expenses.

Mr. CULLOM. I think that is correct.

Mr. PLATT of Connecticut. If he is ordered to go outside of his district to hold court in another district, then he is by statute entitled to reasonable expenses for travel and attendance. I do not think we can go into the question of changing the law so as to give every district judge who holds court in his own district away from his home his traveling and other expenses. We should not get through with that question, I think, for quite a little while if it were suggested and discussed here.

Mr. CULLOM. That possibly may be so, but the Senator can very readily see that in recent years it has been the policy in this country to bring the courts nearer to the people. The result is that while a few years ago there was only one court at one place in the southern district of Illinois, there are now three in the district, and the district cut in two besides, so that in the old district in which I live there are three, and three in the other, making six places where court is held.

I merely wanted to bring this matter to the attention of the chairman of the Committee on the Judiciary for the purpose of ascertaining from him whether there ought not to be a change of the law while we are amending the law as it stands—if it does not provide it now, and I know it does not—so that a judge will know exactly what he is entitled to get and what he is not entitled to get.

Mr. PLATT of Connecticut. At the last session of Congress, or the session before, we raised the salaries of all the district judges in the United States.

Mr. CULLOM. And of circuit judges, too.

Mr. PLATT of Connecticut. We raised the salaries of all the judges. The district judges now get \$6,000 a year, where they got only \$5,000 before. The Judiciary Committee, in reporting that bill, provided that they should receive pay for no expense for holding court outside of their district. The increase in salary they thought sufficient to justify the repeal of that clause of the statute. But the bill went to the House and the House did not concur with the Senate and insisted upon the expense provision being retained. So in conference the expense provision was retained.

Now, it would be utterly hopeless, in my judgment, to attempt at this period in the session and upon this bill to give to the district judges who hold court away from their residence in their own district anything for travel or expenses.

Mr. BERRY. Will the Senator from Connecticut yield to me for a question?

Mr. PLATT of Connecticut. Certainly.

Mr. BERRY. I desire to know just what change this proposed amendment makes in the present law. Does it add the word "actual" where it does not now exist?

Mr. PLATT of Connecticut. "Actually incurred."

Mr. BERRY. "Actually incurred?"

Mr. PLATT of Connecticut. Yes, sir.

Mr. BERRY. Then I want to know if anywhere in this bill

there is a provision which will apply to a district judge holding court outside of his district where the same words have been added.

Mr. PLATT of Connecticut. Those words have been added just before where my amendment comes in.

Mr. BERRY. Applying to all district judges?

Mr. PLATT of Connecticut. Yes.

Mr. BERRY. I understood the Senator from Iowa to say that if this provision went in it would in some way interfere with that which had already been provided for.

Mr. PLATT of Connecticut. Not at all.

Mr. BERRY. He said something or other to that effect, and he said he had examined it. I am not sure what he did say.

Mr. ALLISON. I said nothing that would imply that it would interfere with what has already been done.

Mr. BERRY. That is the way I understood the Senator.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. ALLISON. Is that the amendment offered by the Senator from Connecticut?

The PRESIDENT pro tempore. The amendment offered by the Senator from Connecticut.

Mr. ALLISON. I do not object to it.

The amendment was agreed to.

Mr. ALLISON. Now, I wish to offer as an amendment to the amendment which has just been inserted "the same to be paid upon written certificates of said judge, and such payments shall be allowed the marshal in the settlement of his accounts with the United States."

I move this amendment, of course, with diffidence—

Mr. PLATT of Connecticut. I do not object to it at all.

Mr. ALLISON. And I want to say merely a word about it. I am glad the Senator does not object to it.

The object of this certification by the judge is to enable him to secure the expenses from the marshal and not wait for the accounting officers to go through the question of actual and necessary expenses before he can be paid. I think it is but fair to the circuit judges that they should be put upon a par with the district judges as respects this certification.

Now, the Senator from Connecticut says that this is not necessary. If it is not, I shall be very glad to agree to strike it out in conference.

Mr. PLATT of Connecticut. It does no harm.

Mr. ALLISON. Then if it does no harm it may do a little good.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Iowa.

The amendment was agreed to.

Mr. CULBERSON. I ask that the amendment may be read at the desk.

The SECRETARY. At the end of the amendment adopted on motion of Mr. PLATT of Connecticut it is proposed to insert the following:

The same to be paid upon written certificates of said judge, and such payments shall be allowed the marshal in the settlement of his accounts with the United States.

Mr. CULBERSON. I understand that amendment has been adopted?

The PRESIDENT pro tempore. The amendment has been adopted.

Mr. CULBERSON. I propose an amendment, to come in after the word "attorney," in line 13, page 141.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Texas will be stated.

The SECRETARY. After the word "attorney," at the end of line 13, on page 141, it is proposed to insert:

*Provided further, That in no case, except in the District of Columbia, shall United States district attorneys hereafter receive fees of office in addition to the salaries allowed them by law.*

Mr. CULBERSON. Mr. President, with reference to the proposed amendment I desire to say but a word. The Attorney-General of the United States in his last report for this year calls attention to the fact that the United States district attorneys are now compensated by salaries, rather than by fees, except in the case of the District of Columbia and in the case of the southern district of New York. He then recites certain statutes upon which those attorneys are allowed fees, and states that no hardship has worked in the case of the District of Columbia and the attorney of the United States there has not been compensated in excess of what should be paid him for the duties performed. He invites attention, however, to the case of the district attorney of the southern district of New York, who, in addition to his salary, during four years has been paid more than \$219,000. The Attorney-General rec-

ommends in his report that the law be so amended that hereafter district attorneys shall not be allowed any fees in excess of the salary allowed them by law, amounting to \$6,000. This amendment is in line with the recommendation of the Attorney-General and, it seems to me, should commend itself to every member of this body.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Texas [Mr. CULBERSON].

Mr. PLATT of Connecticut. Mr. President, I do not think a matter of this importance ought to be disposed of in this way, and I should now like to call the attention of the Senate to it.

It is true, I think, though I have not had an opportunity to examine the statute, that in 1896 we took away from the United States district attorneys their fees and made a fixed salary for them, but the southern district of New York was excepted from the operation of that statute by reason of the fact that the services and duties of the district attorney in that district could not be reasonably compensated by the salary allowed. I think the salary is \$6,000, and fees are allowed in that district in addition to the salary, but the amount of business there is such that it is manifest, I think, to everyone that the salary provided for would not be sufficient for the arduous duties and labors performed. While perhaps the whole subject ought to be examined and if the fees received by the district attorneys are excessive, as would appear by the report of the Attorney-General, some different arrangement should be made, or the amount of fees received by the district attorney in that district should be limited to a certain amount, yet I think that we can not deal with this question here offhand in this way and do justice. I think that the salary of \$6,000 a year—if that is the salary—would not be adequate for the performance of the duties of the district attorney in the southern district of New York.

Mr. PATTERSON. Mr. President, I would ask the Senator from Connecticut whether it would not be well, in view of the recommendation of the Attorney-General, to allow this amendment to be adopted, and if it is found to work any injustice, then it may be remedied by the committee of conference. It is manifestly unjust to allow the law to continue as it is. It is unjust against the Government that any United States attorney can receive \$219,000 per annum in fees, as well as the salary, when he is provided with ample assistants, every one of whom receives a good compensation.

Mr. PLATT of Connecticut. On what page of the report of the Attorney-General is the recommendation to be found, to which the Senator from Texas refers?

Mr. CULBERSON. On page 17.

Mr. PLATT of Connecticut. I will find it in a moment.

Mr. ALLISON. Mr. President, while the Senator from Connecticut is examining the report of the Attorney-General, I wish to say that, if I understand the reading of the amendment proposed by the Senator from Texas [Mr. CULBERSON], it relates in brief to the compensation of the district attorney of the southern district of New York and proposes to confine his compensation to \$6,000 a year. Is that the substance of the amendment?

Mr. CULBERSON. That is the substance of it.

Mr. ALLISON. I should be glad to have the amendment again read.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Texas [Mr. CULBERSON] will be again stated. The Secretary again read the amendment proposed by Mr. CULBERSON.

Mr. ALLISON. Mr. President, that amendment, if the Senator from Connecticut will allow me a moment—

Mr. PLATT of Connecticut. Certainly.

Mr. ALLISON. That amendment, as I understand, is aimed wholly at the district attorney of the southern district of New York. As I understand, by the legislation of some years ago, when we fixed the compensation of district attorneys, we excepted the District of Columbia and the southern district of New York. That there have been excessive fees paid in past years to the district attorney of the southern district of New York under existing law I have no doubt, and I have no doubt that there should be a readjustment of the office of the attorney for the southern district of New York, but to simply make a provision that his salary shall be only \$6,000 a year, without making other provision which will enable the district attorney there to transact the business of that district, I think would be an injustice.

The House of Representatives did undertake to deal with this question. This amendment is clearly a change of existing law and is general legislation; and so I shall feel obliged to make the point of order against it.

Mr. PLATT of Connecticut. One word, Mr. President. By reference to the Attorney-General's report I find this:

The following are the sections of the statutes under which by existing law the district attorney of the southern district of New York may receive compensation in addition to the \$6,000 paid to him.

The Attorney-General refers to section 825 and section 827 of the Revised Statutes. Section 825 allows—

every district attorney 2 per cent upon all moneys collected or realized in any suit or proceeding arising under the revenue laws, and conducted by him, etc.

Section 827 provides that—

When a district attorney appears by direction of the Secretary or Solicitor of the Treasury on behalf of any officer of the revenue in any suit against such officer for any act done by him, etc.

The Attorney-General says with regard to that:

As I have stated, suits under section 3011, in which compensation under section 827 is allowable, are no longer brought, as that section was repealed by the act approved June 10, 1890 (chap. 407, sec. 29). When pending cases under said section 3011 are disposed of section 827 will no longer operate as a source of revenue to the district attorney for the southern district of New York.

With regard to section 825 the Attorney-General says:

The amount of fees realized under section 825 is not large, and the compensation under section 4646 is only for services in prize cases arising out of seizures in time of war.

So that hereafter no such large fees will be paid, because the law has been changed with reference to that subject.

Mr. ALLISON. I might add that because sections 825 and 827 have become practically obsolete, all the cases brought under those sections of the statute having been practically disposed of, the district attorney will no longer receive the fees therein provided for.

Mr. CULBERSON. Section 825 is not obsolete.

Mr. ALLISON. Not obsolete, perhaps, but practically obsolete, the cases arising out of it having been disposed of. It has been proposed by the committee that we should increase in this bill the annual compensation of the district attorney for the southern district of New York because these fees have been eliminated and because the salary is not sufficient.

So, Mr. President, with this difficulty surrounding that situation, I shall feel constrained to renew my point of order after the Senator from Texas shall have finished what he wishes to say.

Mr. CULBERSON. Mr. President, with reference to the point of order made by the Senator from Iowa, I invoke with great confidence the decision of the Chair on yesterday on this floor, in which the distinction was clearly drawn between an amendment which changes existing law and an amendment which proposes general legislation. The Senator from Iowa has brought out the distinct point that this provision was merely local in its application, changing existing law with reference to the southern district of New York alone.

Mr. BLACKBURN. And it does not interfere with the Senate rule.

Mr. CULBERSON. And, as suggested by the Senator from Kentucky [Mr. BLACKBURN], it does not infringe upon the Senate rule prohibiting general legislation.

Now, upon the merits of the amendment, I call attention to the language of the Attorney-General:

I recommend that the two district attorneys above named be given fixed salaries in lieu of all compensation now allowed them.

Notwithstanding the fact that the district attorney in New York is paid \$6,000 a year, which is a thousand dollars more than Senators are paid, and the same salary that is paid to United States district judges, and notwithstanding the fact that he has all the help in the way of legal advice and assistants he desires or can under any circumstances need, if Senators opposed to this amendment would suggest a further amendment to it, limiting the salary to something in addition to \$6,000, I do not know but that I would be willing to accept that. But we are face to face with the proposition whether the condition of affairs which has been pointed out by the Attorney-General shall continue; that is, that the district attorney for the southern district of New York is now receiving under the law, in addition to \$6,000 a year, over \$219,000 in fees for four years, which is more than \$70,000 a year. The Senate ought to meet the question and determine it now.

Mr. PLATT of Connecticut. Mr. President—

Mr. NELSON. Mr. President, I desire to ask the Senator from Connecticut if the attorney for the southern district of New York does not get paid for all the assistance given to him? Is not provision made for all the assistant counsel and attorneys that he employs?

Mr. PLATT of Connecticut. I can not answer that.

Mr. NELSON. Does he have to pay them out of his own pocket or does the Government pay them?



Mr. PLATT of Connecticut. I can not answer that question, because I am not informed. I thought I heard the Senator from Texas [Mr. CULBERSON] say that the compensation from fees amounted to \$70,000 a year.

Mr. PATTERSON. That was my mistake.

Mr. CULBERSON. I said it amounted to over \$219,000 for four years, and the Senator from Florida, behind me, suggested that that would amount to more than \$70,000 a year, and I adopted that suggestion. Probably it was a mistake.

Mr. PLATT of Connecticut. It has been \$50,000 a year, or thereabouts; but, Mr. President, this same report of the Attorney-General shows that, the statute having been repealed under which the suits are brought, for attendance on which fees are allowed, hereafter there will probably be very little additional compensation to his salary to be derived from that source.

It is true that the Attorney-General does recommend that the district attorney for the southern district of New York and the district attorney for the District of Columbia should receive fixed salaries in lieu of all compensation now allowed them. This amendment does not propose to deal with the district attorney of the District of Columbia.

Now, it being true that these large and, if you please, excessive fees which have been received by the district attorney in New York will no longer be received by him after the present suits in court are disposed of, and it being impossible to determine in this offhand way if we are to fix his salary in lieu of all compensation what that salary ought to be, and inasmuch as we have no statement with regard to the duties he performs and nothing to guide us as to the amount of salary which he ought to be paid, if salary alone is to be his compensation, it seems to me that it ought not to be done at this time.

Mr. CULBERSON. Mr. President, I desire to perfect the amendment by adding the sentence which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. At the end of the amendment it is proposed to insert "the district attorney for the southern district of New York shall hereafter receive a salary of \$7,500."

Mr. BACON. I think the salary ought to be \$10,000. In that district, certainly a most important one, I think \$10,000 is not too much, but the salary ought to be fixed. Of course, if the Senate does not agree to the suggestion as to \$10,000, I would vote for the amendment as suggested by the Senator from Texas [Mr. CULBERSON]. But something certainly ought to be done to correct this evil.

The Senator from Connecticut [Mr. PLATT] suggests that the fees of this district attorney in the future will not be so great as they have been in the past, for the reason stated by him.

This matter was brought to the attention of the House of Representatives, and the chairman of the Committee on Appropriations himself uttered his condemnation of the present status of affairs. He stated in the proceedings, the record of which I hold in my hand, that the receipts of the district attorney for the southern district of New York were in the neighborhood of \$60,000 a year—as he himself stated, greater than the salary of the President of the United States.

It is not often that we are in a position to deal with these matters, but when opportunity is presented and the evil is so undisputed we ought not to pass the opportunity. We ought to deal with it on this bill. We have here the fact presented that a district attorney is receiving ten times as much as the salary allowed to other district attorneys, six times as much as that received by a judge of the Supreme Court of the United States, and more than the salary of the President of the United States.

Why should we defer the matter? Why should we for a moment hesitate to deal with it right now when the opportunity is presented to us? I should like those who are opposed to the fixing of the salary to explain why it is that we have adopted as applicable to almost all the district attorneys of the United States the policy of paying them by fixed salaries rather than by fees. I should like to have an explanation why there should continue to be an exception in the case of the district attorney for the southern district of New York, except so far possibly as that exception might require that he should receive a larger salary than the other district attorneys because of the greater responsibilities of his position, the larger amount of work to be done, and possibly the larger expense which his situation requires for his living.

I do not stand on a small point as to the amount of the salary, whether it is \$7,500 or \$10,000. I am perfectly willing to make it \$10,000, but I do think that we will fail in our duty—and I say it in all respect for those who differ from me in that regard—but, in my opinion, we will fail in our duty if, with this presentation made to us in the report of the Attorney-

General, called attention to in the debates in the House of Representatives, and with the facts undisputed, we fail to take hold of it and correct it.

As I understand, the House did not deal with this question simply because, under their rules, in the condition in which the matter was when under discussion in the House, they could not deal with it according to their rules. But we are in a position to deal with it, and I hope we will not fail to do so.

Mr. DEPEW. Mr. President, the district attorney of New York City wrote to my colleague [Mr. PLATT] a letter explaining this whole situation, so far as his duties are concerned and the fees he has received. That letter is temporarily mislaid among the mass of papers which go to the Committee on Appropriations.

Mr. ALLISON. I think we shall have it here in a few moments.

Mr. DEPEW. I think it should be laid before the Senate, and when it arrives I shall ask to incorporate it, for the information of the Senate, in the few remarks I am about to make.

As I recollect the letter, the district attorney for New York found himself in an unusual condition so far as litigation and responsibility are concerned arising out of the prize cases and litigation connected with the civil war. There were several hundred million dollars of claims against the Government. The district attorney at New York conducted these cases at great labor and with great ability, with the result of saving to the Government nearly the whole of that amount. I think the letter will show that he did not take all the fees that are allowed of the 2 per cent, but that he restricted it to the amount which has been received by some arrangement which was made, if I am not misinformed, with the Attorney-General in office at the period when this litigation began.

The litigation in the southern district of New York for the Government is more important, larger in amount, larger in the number of cases that are brought, and more difficult in the legal questions that are involved than the litigation in any other place in the country, because through that port passes such a large portion of our imports and exports.

As lawyers are paid in New York, \$6,000 a year, even when the honor of the position is added, will not command anything like the talent that is required to properly represent the United States in that district. But I think if the suggestion of the Senator from Georgia [Mr. BACON] were adopted and the salary made \$10,000 a year the Government might then secure an attorney who would be equal to the claims made upon him.

Mr. NELSON. I desire to ask the Senator from New York a question. Does he think it just and fair that we allow the attorney for the southern district of New York a salary really greater than that received by the President of the United States?

Mr. DEPEW. I do not.

Mr. NELSON. Fifty-seven thousand dollars a year, including fees?

Mr. DEPEW. I do not.

Mr. NELSON. Is not \$10,000 sufficient? Ought we not, in the interest of public virtue and public economy, to compromise on \$10,000 a year? I think that is fair. I submit to the Senator from Iowa that it is wrong to let this state of affairs continue and allow that attorney to receive \$57,000 a year when the President of the United States only gets \$50,000. Let us compromise on \$10,000 a year. That is just and fair, and as a matter of economy this is a good place to begin. Why should that officer have \$57,000 a year?

Mr. BACON. If the Senator from New York will permit me, in order that he may address his remarks to it, I will move to amend the amendment offered by the Senator from Texas [Mr. CULBERSON] by striking out "seven thousand five hundred" and inserting "ten thousand."

Mr. DEPEW. Mr. President, I believe this matter should be corrected. I think the fees should be abolished, and that the amount of compensation should be fixed by a salary, and I believe that \$10,000 a year would be a very proper amount to be given. I hope that in some way this amendment may be put upon the bill and the matter adjusted now.

As I understand, when the matter came up in the House, it was stricken out on a point of order, because in the House the rule differs from ours. There, if an amendment proposes a change of existing law, it goes out under a point of order, and the Chair has no discretion, while here the Chair has large discretion as to whether it is general legislation and proper to be put in a bill.

Mr. ALLISON. Mr. President, when I made the point of order on this amendment I made it chiefly because it is legislation, and general legislation. It is true, as suggested by the Senator from Texas [Mr. CULBERSON], that this applies only to one locality, which makes it special. I did that not because I

am in favor of allowing the district attorney in the southern district of New York a larger salary than the President of the United States receives. Temporarily the district attorney of the southern district of New York I have no doubt did receive large fees, arising from the special conditions and the situation in that district.

In 1890 we passed what was known as the "general appraisers law," whereby the adjustment of duties was provided for in a way entirely different from the plan under the then existing law. When that law was passed there were pending in the district court of the southern district of New York 65,000 cases under the old law, cases where importers had sued the Government for damages; and those 65,000 cases have been running along, as I understand—speaking now in a general way—for the years since 1890.

Mr. NELSON. Will the Senator from Iowa allow me to ask him a question? I dislike to interrupt him.

Mr. ALLISON. With great pleasure. I always like to hear the Senator.

Mr. NELSON. Is it not a fact that all the subordinates of the district attorney are paid by the Government? He does not pay them out of his own pocket or out of this revenue.

Mr. ALLISON. A certain portion of the fees are paid to assistants, but there are a goodly number of assistant district attorneys in that district, perhaps six or eight. Their fees are limited to \$3,500 a year, I believe, as the maximum.

Now, there was this large class of cases. Then came along, in 1898, while these cases were pending, the war with Spain, which caused a great number of prize cases to be instituted. Under these two statutes the district attorney of the southern district of New York was enabled, under the general provisions of law, all of which I believe the Senator from Connecticut has read, to secure a large amount of fees, averaging, it is true, over \$40,000 a year, which was an enormous sum.

The Senator from Georgia and the Senator from Minnesota have asked me why it is that I am permitting this wrong to exist, and my answer is, first—

Mr. BACON. I hope the Senator from Iowa will pardon me if I say I have not asked that question and would not.

Mr. ALLISON. The implication is, when I make the point of order upon the amendment, that I am encouraging exorbitant fees. I know the Senator does not mean to cast any imputation.

Mr. BACON. I would not only be the last one, but there is no member of the Senate who would make such an imputation upon the Senator from Iowa.

Mr. ALLISON. I thank the Senator for the compliment.

This whole matter was dealt with by the Judiciary Committee four or five or six years ago, and the Judiciary Committee, after going over the whole question in great detail and for many months, in order to substitute salaries for the district attorneys instead of fees and emoluments, came in here with a bill and asked the Senate to support it, in which the southern district of New York and the District of Columbia were exempted from the salary provision. Why did they do that? Was it a mere chance that the Judiciary Committee brought in here an exemption of this kind, while compelling all the other district attorneys in the United States to receive a fixed compensation in lieu of fees?

I assumed and have believed that the Judiciary Committee had investigated this question and saw that there were 65,000 cases pending in the southern district of New York arising out of the customs law, and they also knew at the time that if there were prize cases pending or likely to arise out of a war with any country those prize cases in the nature of things would go for final adjudication to the southern district of New York. That being the situation at that time, this exemption was made—made in the light of day—not on an appropriation bill, but upon a statute maturely considered and largely debated in this body.

Now, then, it turns out that on this 2d day of March, 1905, we are to be told that here is a crisis in our affairs, and that if we do not straightway, on an appropriation bill, deal with this question of the salary of the district attorney for the southern district of New York we are neglecting our duty. Whose duty is it to initiate legislation as respects the judiciary of the United States and all questions arising out of judicial matters and the administration of justice? We have here year after year questions as respects the increase of the compensation of the judges of the United States, and particularly the Supreme Court judges. We have refused, although requested many times to do so, to put such a provision on the appropriation bill. If it is in order to fix the salaries of the judiciary on an appropriation bill, it is in order to fix or change the salaries of every officer in the United States, and in the hurry and scurry of passing bills in the last hours of the session is it to be intimated that the Committee on Appropriations are derelict in our duty if we suggest to the Senate that these matters ought to be maturely and care-

fully considered by the organ of the Senate, the Judiciary Committee, which has jurisdiction of them?

Therefore I want to assure the Senator from Texas and other Senators who rise here and say that this matter ought to be adjudicated and adjusted in a moment that I made the point of order not because I am not in sympathy with the report of the Attorney-General, if you please, or with the observations made by Senators on this floor as respects the question of the salary of the district attorney for the southern district of New York. For myself I am glad that the junior Senator from New York [Mr. DEPEW] has stated that he thinks it is a matter which ought to be corrected and is willing to have it corrected now. That being so, I certainly shall withdraw my point of order and allow the vote to be taken as to the compensation of the district attorney for the southern district of New York, although I doubt very much—and I will put that prophecy of record—whether you can secure a man in the city of New York who is competent to hold this great office and administer its great affairs, to advise when suit shall be brought and when matters shall be contested in the courts, for the salary suggested even by the Senator from Georgia. The salary of the collector of customs in New York is \$12,000; that of the surveyor of the port, even, is \$8,000. Yet every customs case before it goes into court must come under the eye and scrutiny of this district attorney or else some one in his office. Therefore, if we are to protect our revenues, when three-quarters, yea, nine-tenths, of the revenues that come into the Treasury from customs duties come in at the port of New York, it is of immense importance that we have there a competent lawyer, a lawyer who is not only competent in the court, but who is a great administrative officer as well, and who will keep the Government of the United States out of court when it ought not to go in.

I have spent more time on this subject than I desired. I mean no reflection upon the Judiciary Committee or any other committee of this body. I only mean to say that I think these questions, as a rule, ought to be adjusted and considered by the committees of the Senate who have charge of the matter and not be put upon an appropriation bill during the last hours of Congress.

Mr. PLATT of Connecticut. Mr. President, the only point in the remarks I have made and in those which I propose now to make in reference to this matter is that we can not at this time by an amendment on an appropriation bill deal fairly and justly with this question.

The salary of \$10,000, as suggested by the Senator from New York [Mr. DEPEW], may be a fair salary for the district attorney in New York. It may not be. It is a guess. This matter, perhaps, should have been taken up by the Judiciary Committee at this session, because the Attorney-General called attention to it. But the Senator from Georgia [Mr. BACON] and the Senator from Texas [Mr. CULBERSON] are members of that committee, and if the chairman of the committee or the committee itself is to blame for not having considered the matter, they are equally to blame with the rest of the committee for not calling attention to it.

I do not know, Mr. President, the Senate does not know, it can not know, except with a fuller statement of the business of the district attorney for the southern district of New York—the magnitude of the business, the character of it, the amount involved, the interests of the Government—what is the just and right thing to be done. We can jump at it; we can guess at it; and if we guess right we shall have settled it right. If we guess wrong we shall have done an injustice either to the Government or to the district attorney.

Since the Senator from New York suggests that perhaps a \$10,000 salary would be all that the district attorney there ought to receive, I do not know that I desire to oppose the amendment further and longer; but, Mr. President, there are cases tried by the district attorney in New York involving millions and millions of money to the Government, and in which attorneys arrayed against the Government get more for a single fee than the district attorney has received by way of compensation during all these four years.

I do not say that an officer of the Government should be paid at the rate at which attorneys employed by individual litigants against the Government are paid, but I do say that we are not, in my judgment, in position to deal with this matter as we ought to deal with it, if we are going to have legislation that is right and just.

Mr. BACON. Mr. President, I am sure the Senator from Iowa [Mr. ALLISON] misconstrued what anyone said in the Senate if he considers it to be in the slightest degree an imputation that there had been any lack of duty or desire to perform duty on his part or on the part of his committee. Nothing which I said related not to the past, but to the present alone and to the duty now resting upon us.



It is true, as stated by the Senator from Connecticut [Mr. PLATT], the honorable chairman of the Judiciary Committee, that both the Senator from Texas and I have the high honor of being members of the Law Committee of the Senate; but it is also true that neither one of us enjoyed that honor at the time when the law was passed to which the Senator from Iowa has alluded, to wit, the act of May 28, 1896. At that time, although then a Senator, I was not a member of the committee, and the Senator from Texas was not then a member of the Senate.

There is no disposition in anything that has been said by those who have spoken on this subject to reflect on any act which has heretofore been passed or any failure to enact any act. The only possible reflection which could be suggested is that which has been intimated by the Senator from Connecticut, that there may have been a failure on the part of those who are particularly charged with the law matters of the Senate heretofore to call the attention of the Senate to this, and to correct it by legislation. The only excuse which can be offered for it is that legislating for all the various Departments of the Government is a vast business, and some matters are necessarily not seen until our attention is directly called to them. I confess my attention was not called to it until the debate in the House of Representatives, in which this matter was, so far as I can understand, pretty generally deprecated, to use no stronger term.

Mr. NELSON. Mr. President—

Mr. BACON. Mr. President, I shall detain the Senate but a moment.

It is true that the district attorney for the southern district of New York is charged with very great duties and has very grave responsibilities, and it was for that reason doubtless that the act of 1896 omitted that officer from the general act prescribing a certain amount of salary for each of the district attorneys of the United States. It is also true, as stated by the Senator from Connecticut, that vast amounts are involved in litigation to which the United States is a party, and that there are very many lawyers who receive very much more, possibly, in one of these cases than the district attorney would receive for his entire year's salary. But that is not a legitimate argument. If it were true, every judge's salary would have to be upon a standard to be measured by the fees of the lawyers who appear before him.

The salary of \$10,000, as I have suggested, is equal to that of the judges of the Supreme Court. It is greater than the salary of any Federal judge before whom the district attorney will appear in the representation of the interests of the United States, unless he has to come to the Supreme Court of the United States.

The Senator from Connecticut suggested that we can not now deal with this question advisedly. There are very few facts to be considered in its determination. It is not a matter which requires investigation. We know the scale and standard of salaries for officials under this Government, and we are presented with the fact, not from newspaper reports or from hearsay, but from the direct communication of the Attorney-General, a fact that can not be disputed, that the attorneys for the southern district of New York is annually receiving this immense amount.

It is true that the changed conditions may cut down this amount, but will it cut it down below \$10,000? If so, then it is to his advantage that the salary should be fixed at \$10,000. Is \$10,000 a proper salary for that officer? If so, he is done no injustice in case the fees shall amount to more than \$10,000 if we limit his salary to \$10,000. To pass this matter by means practically an indefinite postponement of the decision of the question, whether in the future the attorney for the southern district of New York shall receive an income for his professional services five times as great as the salary of a judge of the Supreme Court, and more than the President of the United States, or whether we will now fix it at a proper amount. If \$10,000 is not the proper amount, fix it at what is the proper amount. We have settled upon the policy of prescribing the salaries which district attorneys shall receive. Now let us fix it at whatever the district attorney for the southern district of New York ought to have, and do not let us leave it in the indefinite situation where he may receive what confessedly is several times at least more than he ought to receive and which he is now receiving.

Mr. SPOONER. I should like to ask the Senator from Georgia a question.

Mr. BACON. I am not sure I can answer it, but I will address myself to it with pleasure.

Mr. SPOONER. And it is because I do not think any Senator can answer it, that I put it to the Senator from Georgia.

Mr. BACON. That puts me in a very embarrassing position. But proceed.

Mr. SPOONER. Does the Senator think that he can say, from the standpoint of to-day, what salary should be paid to the district attorney for the southern district of New York in order to secure the requisite talent, the requisite professional ability, and the entire time of a very able lawyer for the service of the Government? The men whom he is obliged to meet are men of great ability, employed by clients who have the facility for wise selection and abundant ability to compensate their counsel.

I think the point made by the Senator from Minnesota that the compensation ought not to be fifty or sixty thousand dollars a year is well taken, but I think the district attorney for the southern district of New York ought not to engage in general practice. I think he ought to be paid a compensation which will enable him to devote his entire time to the service of the Government; and all the district attorneys throughout the country are paid \$4,500 a year. I know one or two districts in which the business is relatively trifling, and I do not believe it is possible to secure a lawyer in New York City, able to cope with the lawyers who are retained in cases there against the Government, who will be willing to abandon his general practice and serve the Government for \$10,000 a year.

If the Senator is satisfied that I am wrong about it, I am willing to vote for his proposition. I do not know.

Mr. BACON. I do not understand that all that the Senator has said is a question, but the first part I understand to be the question.

Mr. SPOONER. It is all a question.

Mr. BACON. I will ask the Senator to present the question again in concrete form without the accompanying argument.

Mr. SPOONER. My question is, whether the Senator from Georgia thinks that he is in a position to-day to say, keeping only in mind the interest of the Government, what compensation should be paid to the district attorney for the southern district of New York, in order properly to safeguard the Government interests there?

Mr. BACON. If that is the question I will say to the honorable Senator that I think I am in just as good position to-day to determine that question as I will be at any future time, and I think the Senator from Wisconsin and other Senators here are in just as good a position to determine that question to-day as they will be at any future time. We do not need statistics on this business.

Mr. PLATT of Connecticut rose.

Mr. BACON. The Senator will pardon me for just a moment? I want to say this, which I endeavored to present in what I said before the question was propounded: We are not to measure salaries for officials by the question how much a man can make in another position. If so, there are a number of Senators here who, as stated by the Senator from Texas [Mr. BAILEY] yesterday, would have to have their salary raised several times over what it is now. It is not to be admitted that the district attorney in New York is to have an increased salary because of the fact that he has to meet such an exceptionally able bar. Any district attorney in a district having a large city in it or where there is important business has to meet able lawyers, and without any reflection or invidious discrimination against the lawyers of New York, I may say that I have had some little experience in association with them professionally and otherwise, and I do not believe, while there are more great lawyers in New York than there are elsewhere, because naturally there are a great many people and there is necessity for a great many more lawyers, the lawyers of New York are any better lawyers than the lawyers to be found in a great many other cities.

I think I can designate some lawyers in this body who would compare very favorably with any lawyers found in the city of New York.

Mr. SPOONER. I think the Senator is quite right, that there are lawyers in this body who could discharge the duties of district attorney for the southern district of New York satisfactorily. But I do not know any lawyers in this body who would accept that position if they were free from this public duty at a compensation of \$10,000 a year.

Mr. BACON. I do not recognize generally the propriety of the suggestion that if one officer does not desire the position there will be another man who will fill it. Generally, I think, that is rather a demagogical argument. Consequently I make that explanation in advance of what I say, that in this case if you fix the salary at \$10,000 I have no apprehension that there will be any resignations, and if there is a resignation I have no apprehension that there will be any failure to find a competent lawyer to fill the position.

Mr. PLATT of Connecticut. May I be permitted to interrupt the Senator from Georgia—

Mr. BACON. Certainly.

Mr. PLATT of Connecticut. To suggest another view of this question, one which has not yet been considered by anyone?

Suppose it be true that all the cases upon which fees have been charged are disposed of, or practically so, does the Senator want then to increase the salary of the district attorney in New York from \$6,000 to \$10,000?

Mr. BACON. Yes. I will say to the Senator very frankly my judgment is that the district attorney for the southern district of New York ought to have \$10,000, even if the fees would not bring it, because I think it is a position of sufficient responsibility.

Mr. PLATT of Connecticut. I think really that is just what we are doing.

Mr. BACON. Very well; I am in favor of it if that is what we are doing.

Mr. PLATT of Connecticut. We are increasing the compensation and emoluments of the district attorney in New York from \$6,000 to \$10,000. I think the cases in which the fees have been received, by which he got more than \$6,000, are practically all disposed of.

Mr. BACON. Then the suggestion of the Senator from Wisconsin is not pertinent, that we would not be able to get a lawyer of sufficient ability to fill the position if the salary was fixed at \$10,000, because, under the prophecy now made by the learned and honorable chairman of the Judiciary Committee, that if we pass this law the effect of it will be to give more than he would otherwise receive; if that is the effect, certainly the influence of this legislation could not be to deprive the Government of the services of a competent lawyer. If, as prophesied by the Senator from Connecticut, after the passage of this bill, \$10,000 will amount to more than the fees, this legislation is in the direction of the securing of a better lawyer for the position than we would have had if we did not pass it; and that is on all fours with what I said before.

If the fees are to be hereafter less than \$10,000, no harm is to be done to the officer by the adoption of this amendment, because he would receive more than he otherwise would receive. If, on the other hand, the fees are to exceed \$10,000, and \$10,000 shall be adjudged by us to be a proper amount, no injustice will be done him, because he will receive all that he should receive. I trust that we may have this amendment adopted.

Mr. NELSON. Mr. President—

Mr. BACON. I was only going to say a word as to the point of order. I will not trespass upon the time of the Senate, but leave that to other Senators who have given more direct attention to it.

Mr. NELSON. Mr. President, I desire in just a moment to make a disclaimer in one respect. I fear that the Senator from Iowa took umbrage at the vehemence of my remark. I want to say to the Senator that there is no member of this body for whose energy and judgment and vigilance I have a higher regard than for him, and I am always glad to follow in his footsteps as an humble private. What I said was intended rather as an appeal to his good nature. I want to say further to him that at the time this legislation was passed I was not a member of the Judiciary Committee. I hope if there was any reflection on the committee for leaving it in the law it will not be charged up to me.

I will say further that from my acquaintance with these matters in my own State the fee system is the most vicious system possible, both in respect to the marshal and the United States attorney. I could go on here for half an hour and relate instances in my own State showing how badly it works.

We give the Attorney-General of the United States, the head of our Department of Justice, a salary of \$8,000 a year. There is no doubt at all but that every man, so far as I have known, whom we have had in that office could earn a bigger salary outside in his private practice. It is not the question of what a man could earn outside of the office. I submit that when we give a subordinate of the Department of Justice, like the district attorney of New York, as big a salary as the Attorney-General of the United States we have done a fair thing. The district attorney of New York is given help by the Government. He has a large number of assistant attorneys—I do not know how many. They are paid by the Government. He is not required to compensate them out of his fees. If we give him a salary as big as the Attorney-General of the United States we certainly do justice to him.

Men take public offices like that of Attorney-General of the United States and other offices not because they can earn as much in them as they could in their private practice but they take them partly, largely in many instances, for the honor there is in holding the office. I presume the late Attorney-General of

the United States, who is now a member of this body, could in his private practice earn a salary three times as large as that he received when he was Attorney-General of the United States. So what a man can earn outside is no criterion. It is very likely that the man who is now district attorney of the United States in the southern district of New York could, in his private practice, earn more than a compensation of \$10,000 a year.

I submit that in this matter of salaries there ought to be a moderate criterion fixed as to all of them, and the vicious system—and that is the iniquity of this thing—of allowing fees under any conditions ought to be abolished, whether the salary is \$10,000 or \$12,000. I should be ready to vote for a salary of \$12,000 for this officer if we could abolish the vicious fee system.

I again express the hope that the Senator from Iowa will withdraw his point of order and allow an amendment either for ten or twelve thousand dollars a year to be offered.

Mr. DIETRICH. Mr. President, I should like to ask the senior Senator from Iowa if he would be willing to suggest to the Senate as to what he would consider a reasonable salary for that officer?

Mr. ALLISON. I would prefer not to make even a suggestion respecting the salary. After the complimentary allusion to myself made by the Senator from Minnesota I would rather adopt his suggestion of \$12,000 a year than to make one of my own. I do think that a lawyer who is thoroughly competent to discharge the varied duties of district attorney in the southern district of New York, being administrative duties as well as strictly legal work in the courts, ought to have a compensation of ten or twelve thousand dollars a year.

Mr. DEPEW. Mr. President, I echo the sentiment of the Senator from Minnesota in regard to the Senator from Iowa, the chairman of the Committee on Appropriations. I would not have made any motion to change the position which the chairman of the Committee on Appropriations has taken, and I only intervened in this debate because the motion was made by other Senators.

I have here a letter from the district attorney addressed to my colleague, who says that now these cases are disposed of, unless legislation is had, the salary of the district attorney of New York for the future will be only \$6,000 a year, as the cases in which these fees were paid are disposed of, no longer exist, and none others will come on. I think all of us recognize—

Mr. BACON. Will the Senator pardon me a moment while I ask him what those cases are? What is the class of cases?

Mr. DEPEW. The class of cases were the ones arising out of the civil war, claims made against the Treasury for seizures. I have here a letter which recites them. It is a long letter, and I will put it in the Record.

Mr. BACON. Yes. I simply wanted to ask the Senator, and I do it for information because I am not familiar with it, if there are not also large fees growing out of controversies over questions arising from imported goods under the tariff laws, and if I am correct in that suggestion those certainly will not terminate.

Mr. ALLISON. There are still undetermined cases that arise out of the customs laws, but under the recent law as respects the appraisement of goods there are no fees, I understand me, I should like to read from the report of the Attorney-General, which will clear up the matter:

Mr. CULBERSON. If the Senator from New York will permit me, I should like to read from the report of the Attorney-General, which will clear up the matter:

All of the compensation allowable under section 827 is allowable in cases commenced under the provision of said section 3011.

At another point he says:

The compensation received for the fiscal years 1901, 1902, 1903, and 1904, under section 827, was \$219,895. As I have stated, suits under section 3011, in which compensation under section 827 is allowable, are no longer brought, as that section was repealed by the act approved June 10, 1890 (chap. 407, sec. 23).

Nevertheless the Attorney-General leaves it clear that under existing law there will be considerable fees going to the district attorney of that district in addition to the \$6,000, and consequently he recommends that he be placed upon a salary hereafter and not be allowed any fees at all.

The PRESIDENT pro tempore. The Senator from Texas offers an amendment, which will be read.

Mr. DEPEW. Mr. President, one word. The statement just made and what has just been read by the Senator from Texas simply emphasizes that all fees where possible should be dispensed with and that salaries should be paid. I will just read, confirming why I made that statement, what General Bennett, the district attorney, says:

The cases in which "fees" can be charged outside of salary, as I explained, have all been disposed of excepting two, and those will be



disposed of in April, leaving the salary of this office, as I have above stated, simply \$6,000.

Mr. President, I ask to have read this letter and the statement made in full incorporated in the RECORD as a part of my remarks.

The PRESIDENT pro tempore. The Chair hears no objection.

The matter referred to is as follows:

DEPARTMENT OF JUSTICE,  
OFFICE OF THE UNITED STATES ATTORNEY  
FOR THE SOUTHERN DISTRICT OF NEW YORK,  
New York, February 28, 1905.

HON. T. C. PLATT,  
United States Senate Chamber, Washington, D. C.

DEAR SENATOR: Inclosed please find the synopsis of cases handled in this district, as compared with other districts in the United States, marked "Exhibit B" to my letter of yesterday.

In a communication over the 'phone this morning, your secretary made inquiry of me as to what effect the proposed amendment to the civil appropriation bill would have on the fees of this office. I think that is fully explained in my letter of yesterday, but permit me to repeat that the present bill would really have no effect on the fees of this office, leaving the salary \$6,000. The cases in which "fees" can be charged outside of salary, as I explained, have all been disposed of excepting two, and those will be disposed of in April, leaving the salary of this office, as I have above stated, simply \$6,000.

Very sincerely, yours,

HENRY L. BENNETT.

In the fiscal year ending June 30, 1904, according to the annual report of the head of the Department of Justice (Exhibit 7), there were (not including appraisers' cases) in the 86 districts of the United States, 4,018 civil cases. Amount involved, \$1,321,102. And of these there were 108 in the southern district of New York, involving \$255,273, nearly 20 per cent of the total amount.

Of cases involving suits brought for fines and penalties, 33 out of 215 of such cases were sued for in the southern district of New York, and of those 33 involved 90 per cent of the total amount sued for in all of said 215 cases.

Of the 275 collectors' and appraisers' cases brought in the United States which involved the construction of tariff laws, 218 were in the southern district of New York, or 78 per cent of such cases.

In the 86 districts of the United States there were pending July 1, 1903, 2,940 civil suits in which the United States was a party. And during the year ending July 1, 1904, there were commenced 1,803 civil suits in which the United States was a party; making a total of 4,743.

In the same period there were disposed of in the whole of the United States, 2,171 cases. On July 1, 1904, there were pending in the United States 2,677 cases.

Of the above total of 4,743 civil cases handled in the United States during the fiscal year 1904, the southern district of New York had 895, or approximately 19 per cent of all the civil cases in the United States during that year. And during the same period, of the 2,171 cases disposed of, the southern district of New York disposed of 334, or approximately 15½ per cent of all of the civil cases disposed of in the United States.

Of the 2,677 cases pending in the United States on the 1st of July, 1904, the southern district of New York had 584, or nearly 22 per cent of all the civil cases pending in the United States. This 22 per cent may be safely said to include 70 per cent of all the customs cases in the United States, and this 70 per cent of customs cases involves at least 90 per cent of all the claims in the United States for refund duties.

For a further comparison take the State of Texas. Its population is about equal to the southern district of New York. There are four districts. There are four district attorneys and five assistants, receiving salaries aggregating \$22,600. In the southern district of New York one district attorney and seven assistants receive \$25,700. Total cost of Texas, including clerks, messengers, etc., \$27,570; southern district of New York, \$36,380.

Of the 743 civil cases handled in the United States in 1904 Texas had 90; the southern district of New York, 895.

Take the State of Illinois. Two districts, two district attorneys and six assistants; salaries, \$22,100. Of the 275 collectors' cases the State of Illinois had 14; the southern district of New York, 218.

The civil suits commenced in the United States in 1904 were 1,803. Illinois had 78; the southern district of New York, 277.

Civil suits pending in the United States where the United States was a party July 1, 1903, were 2,940. The southern district of New York had 618; Illinois had 60; Texas had 19.

Of the 275 customs cases in the United States commenced in 1904 Texas (four districts) had none; the southern district of New York, 218.

From the foregoing it will be seen that in the fiscal year 1904 the southern district of New York handled seven times as many customs cases as were handled in the seven districts of Illinois, Texas, and Massachusetts, and at the same time the southern district of New York handled nearly three times as many civil cases as those seven districts and half as many criminal cases.

In other words, in the southern district of New York one district attorney and seven assistants, receiving salaries amounting to \$27,570, conducted, in point of numbers, more cases than seven district attorneys and thirteen assistants, receiving salaries amounting to \$56,700.

Including criminal cases, the southern district of New York handled more than 1,400 litigated cases in the fiscal year ended June 30, 1904.

The following tabulation is set forth as an illustration of the work done by the different districts above mentioned during the fiscal year 1904.

#### AMOUNT INVOLVED.

|  |                |
|--|----------------|
| Total amount sued on in United States in 1904.....   | \$1,321,102.63 |
| Amount sued on in southern district of New York..... | 255,273.58     |
| Amount sued on in Illinois.....                      | 12,719.20      |
| Amount sued on.....                                  | 6,663.22       |
| Amount sued on.....                                  | 5,135.87       |

#### NUMBER OF CASES.

|   |       |
|---|-------|
| Total civil suits disposed of in United States in 1904..... | 2,171 |
| Civil suits disposed of in New York.....                    | 334   |
| Civil suits disposed of in Texas.....                       | 65    |
| Civil suits disposed of in Massachusetts.....               | 50    |
| Civil suits disposed of in Illinois.....                    | 83    |

|  |       |
|--|-------|
| Total customs cases in United States pending July 1, 1903.....   | 787   |
| Customs cases in United States commenced after July 1, 1903..... | 444   |
|  | 1,231 |

|   |     |
|---|-----|
| Total customs cases pending in New York July 1, 1903..... | 482 |
| Customs cases commenced after July 1, 1903.....           | 264 |
|   | 746 |

Of these 1,231 customs cases in the United States, Texas had 4; Massachusetts, 47; Illinois, 53.

|   |     |
|---|-----|
| Total customs cases in United States disposed of.....           | 468 |
| Customs cases in southern district of New York disposed of..... | 284 |
| Customs cases in Texas disposed of.....                         | 3   |
| Customs cases in Massachusetts disposed of.....                 | 5   |
| Customs cases in Illinois disposed of.....                      | 29  |

July 1, 1903, southern district of New York had more than twice as many customs cases as all of the New England States, Pennsylvania (three districts), and Illinois (two districts), and as many civil cases as all these States and districts.

It handled 895 civil cases in which the United States was a party, while the six New England States, Pennsylvania, and Illinois handled but 627.

In other words, the southern district of New York, with one district attorney and seven assistants, at a total cost of \$36,380, disposed of 268 more civil cases than were disposed of in the eleven districts embraced by the New England States, Illinois, and Pennsylvania, where there are eleven district attorneys and twelve assistants, at a cost of \$79,240.

The population of these eight States is about 17,000,000, while the southern district of New York is about 2,000,000.

Of all the civil cases commenced in the whole United States in the fiscal year 1904 about 15 per cent were in the southern district of New York. Of all pending at the beginning of that year, the southern district of New York had about 21 per cent. Of all pending at the end of that year, it had about 22 per cent.

Eighty-five other districts, costing a total of \$628,000, handled only four times as many civil cases as the southern district of New York; and of all the customs cases, which are the most important of all the civil cases, handled in the United States courts, the southern district of New York handled three for every two that are handled in all the other eighty-five districts.

From an examination of Exhibit 12 of the Attorney-General's report it appears that there were pending in United States courts July 1, 1903, 11,039 criminal cases. There were commenced during the year ending July 1, 1904, 18,488 criminal cases, making a total of criminal cases handled in the United States in 1904, 29,527. Of these the District of Columbia and the Indian Territory, where the United States courts conduct all municipal criminal cases, had 13,854, leaving 15,673 conducted in all other United States courts.

From a further examination of this Exhibit 12, it appears that the number of criminal cases conducted in each district seems to bear the same ratio to the total criminal cases in the United States as the population of such district bears to the population of the United States. But in the southern district of New York the population is about 2½ per cent of the population of the United States, while the number of criminal cases conducted, to wit, 515, is about 3½ per cent of the criminal cases conducted in the United States.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. Add at the end of line 13, page 141:

Provided further, That in no case, except in the District of Columbia, shall United States district attorneys hereafter receive fees of office in addition to the salary allowed them by law. The district attorney for the southern district of New York shall hereafter receive a salary of \$10,000 per annum.

Mr. CULBERSON. That is an error. It ought to be \$7,500.

The PRESIDENT pro tempore. The Senator from Georgia [Mr. BACON] offered an amendment to that amendment.

Mr. CULBERSON. That amendment was not accepted and it has not been adopted by the Senate.

The PRESIDENT pro tempore. The Senator from Georgia offered it as an amendment to the amendment?

Mr. BACON. I offered it as an amendment to the amendment.

The SECRETARY. Strike out "seven thousand five hundred" and insert "ten thousand."

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Georgia to the amendment of the Senator from Texas.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

#### RIVER AND HARBOR APPROPRIATION BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 18809) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. GALLINGER. I move that the Senate insist upon its amendments and agree to the conference asked for by the House.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. GALLINGER, Mr. NELSON, and Mr. BERRY were appointed.

#### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On March 1, 1905:

S. 2692. An act to establish a life-saving station at Nome, Alaska;

S. 4782. An act for the conveyance of public lands belonging to the United States in the State of New York;

S. 7034. An act granting an increase of pension to John Q. A. Foss; and

S. 7117. An act establishing that portion of the boundary line between the State of South Dakota and the State of Nebraska south of Union County, S. Dak.

#### REPORT ON SUGAR CANE EXPERIMENTS.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, illustrations, etc., referred to the Committee on Printing:

*To the Senate and House of Representatives:*

I transmit herewith, for the information of the Congress, a Report on Sugar Cane Experiments, 1903-4. The attention of the Congress is respectfully invited to the accompanying letter of the Secretary of Agriculture, recommending that 10,000 copies of the report be printed for the use of the Department of Agriculture in addition to such number as may be desired for the use of the Senate and House of Representatives.

THEODORE ROOSEVELT.

THE WHITE HOUSE, March 2, 1905.

#### REPORT OF COMMISSION ON THE PUBLIC LANDS.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, maps, etc., referred to the Committee on Public Lands, and ordered to be printed:

*To the Senate and House of Representatives:*

I transmit herewith the appendix to the Report of the Commission on the Public Lands, forwarded by me to the Congress on February 13, 1905.

THEODORE ROOSEVELT.

THE WHITE HOUSE, March 2, 1905.

#### REPORT ON MEXICAN COTTON-BOLL WEEVIL.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Printing:

*To the Senate and House of Representatives:*

I transmit herewith, for the information of the Congress, a report on the Mexican cotton-boll weevil. Your attention is respectfully invited to the accompanying letter of the Secretary of Agriculture, recommending that at least 10,000 copies of this report be printed for the use of the Department of Agriculture, in addition to such number as may be desired for the use of the Senate and House of Representatives.

THEODORE ROOSEVELT.

THE WHITE HOUSE, March 2, 1905.

#### EXTENSION OF THE CAPITOL BUILDING.

Mr. WETMORE. From the Committee on the Library, I submit the report of the joint commission established by the sundry civil appropriation act of April 28, 1904, to inquire and report on plans for the extension and completion of the Capitol building.

The PRESIDENT pro tempore. The report will be received and printed.

On motion of Mr. WETMORE it was

*Ordered*, That there be printed for the use of the Senate, and delivered to the document room, 500 additional copies of the Report of the Joint Commission on the Extension and Completion of the Capitol Building, with the accompanying plans and drawings.

#### ANACOSTIA, ETC., ELECTRIC RAILWAY COMPANY.

Mr. GALLINGER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3343) to authorize the Anacostia, Surrattsville and Brandywine Electric Railway Company to extend its street railway in the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1 and 4.

That the Senate recede from its disagreement to the amendments of the House numbered 2, 3, 5, 6, 7, 8, 9, 10, 11, and 12 and agree to the same.

J. H. GALLINGER,  
H. C. HANSBROUGH,  
A. P. GORMAN,

*Managers on the part of the Senate.*

J. W. BABCOCK,  
J. W. WADSWORTH,  
ADOLPH MEYER,

*Managers on the part of the House.*

The report was agreed to.

#### SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 18969) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes.

Mr. PROCTOR. I offer an amendment, to be added at the foot of page 113.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Add, at the bottom of page 113, the following:

Army general hospital: For the purchase of a site for and toward the construction of an army general hospital, \$100,000, to be immediately available; and the total cost of said hospital, including the site therefor, under a contract which is hereby authorized therefor, shall not exceed the sum of \$400,000.

Mr. PROCTOR. This provision was incorporated in the bill as reported to the House, only the appropriation immediately available was double the amount. It was \$200,000, and I have made it \$100,000. This matter has come before the committees. It has been estimated for. It was before the Committee on Military Affairs at the last session, but the scheme was larger, and in our view larger than was really necessary.

The importance of an appropriation is great, for the plan of the engineering school at the barracks, where the only general hospital we have is located, makes it necessary to destroy that somewhat antiquated building. The buildings of the engineering school are now right up against the hospital and can not be completed until that hospital is removed.

This plan is a moderate one for a general hospital in this city. The troops about the city are large in number and have been greatly increased. An appropriation of \$100,000, immediately available, for the purchase of a site is proposed, and the limit of the cost of construction is placed at \$400,000. I hope the committee will accept it.

Mr. ALLISON. I ask that the amendment may be read again.

The PRESIDENT pro tempore. The amendment will be again read.

The Secretary again read the amendment.

Mr. GORMAN. I should like to inquire of the Senator if this hospital is to be located near the War College?

Mr. PROCTOR. It has not been located at all. Several sites have been looked at, but I think the opinion generally is that it will be located outside of the city, where land is cheaper.

Mr. GORMAN. Outside of the city?

Mr. PROCTOR. Yes; outside of the present limits of the city. I am not sure of the corporate limits, but away from the built-up portion of the city. I know it has been considered that a suitable site can be obtained either across the river or on the heights to the north.

Mr. GORMAN. Mr. President, that would be a matter of a good deal of concern. This hospital for general cases probably would not be objectionable, but if all the soldiers of the Army are to be treated for contagious diseases as well, it would be objectionable. We are getting now from our new possessions a great many unfortunate men, who are in trouble with all sorts of diseases that are known only to a tropical climate. I should be very glad to have some idea where the location is to be. I know the haphazard way in which we are transacting affairs now generally, but I think there ought to be some limitation about it. If it was down on the point near the War College, south of Maryland avenue, I should not make objection to it, if it had been well considered by the committee, but I suggest that it is rather unusual to make an appropriation immediately available for the purchase of a site and then provide for a contract to be made to the extent of \$400,000 in addition, and, I take it, without any limitation, as I gather from the amendment, that it shall not in any event exceed that amount. But about the location, it strikes me there ought to be some understanding.

Mr. PROCTOR. Mr. President, this was a measure which was urged very earnestly by Secretary Root, but the plan, as I said, was larger, involving an expense double this amount. This hospital is not for any particular force here. It is not for the force at the barracks or Fort Myer, but it is to be a general hospital. Cases will be sent here for treatment from hospitals at quite a distance, cases that can be better treated here. The precise location is of no special importance, except that the hospital should be as easy as possible of access, and whether it is north of the city or across the river does not particularly concern the interest of the service. It is very important that there should be one here. The matter has been considered in past years by the Medical Department, and they had many opinions on sites, but in the view of the Committee on Military,



Affairs the cost of the site was generally too large, and we declined to favor an appropriation. A provision was reported by the committee of the House and incorporated in the bill, but it went out on a point of order, I think. That provided for an appropriation of \$200,000, immediately available. We have reduced that amount one-half. The amendment proposes to appropriate \$100,000, and to limit the cost for site and construction the same as the provision which was reported to the House, which I think is moderate enough.

Mr. ALLISON. In view of the discussion on this subject I move to amend the amendment by striking out, before "thousand," the words "four hundred," and inserting "three hundred." I think we may manage to get through a provision for a hospital costing \$300,000, including the site.

Mr. PROCTOR. I accept the amendment.

The SECRETARY. It is proposed to amend the amendment by striking out "four" where it occurs before the word "hundred" and inserting "three;" so as to read, "shall not exceed the sum of \$300,000."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. PETTUS. Mr. President, I offer an amendment to the bill, and I ask that the Secretary read the amendment and also the recommendation of the Secretary of the Treasury. It is a small amendment to complete a public building in Alabama.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The amendment and statement will be read.

The Secretary read as follows:

Insert the following:

"For completing public building at Montgomery, in the State of Alabama, as recommended by the Secretary of the Treasury, the sum of \$6,000 is hereby appropriated."

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, December 9, 1904.

CHAIRMAN OF COMMITTEE ON PUBLIC  
BUILDINGS AND GROUNDS,  
House of Representatives.

SIR: Referring to your request dated July 16, 1904, for a report in connection with House bill 1248 for enlarging the public building at Montgomery, Ala., so as to provide a court room for the court of appeals and to meet the necessities of the public service, I have the honor to advise you that under authority contained in previous legislation an extension providing the accommodations contemplated by the proposed bill is nearly completed, but that in order to complete the work in a suitable and satisfactory manner, an additional appropriation of \$6,000 will be required.

Respectfully,

L. M. SHAW, Secretary.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Alabama [Mr. PETTUS].

Mr. MARTIN. Mr. President, I desire to know whether or not this increases the limit of cost. I simply want to know the rule that is to prevail in these matters. I have no objection to the amendment, and do not rise for the purpose of objecting, but I simply want to ascertain whether or not this amendment is simply to appropriate the amount heretofore authorized by a public building bill and not actually appropriated, or whether it increases the limit of cost.

Mr. ALLISON. The Senator from Alabama [Mr. PETTUS] can answer better than I whether or not this appropriation, if made, will be in excess of the amount provided by the law authorizing the building. I will ask the Senator from Alabama will this be an increase of the original limit of cost?

Mr. PETTUS. My understanding is that it is really money that has been expended on that building beyond the limit of cost.

Mr. ALLISON. Then I must make the point of order against the amendment, Mr. President.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The point of order is sustained.

Mr. PATTERSON. Mr. President—

Mr. ALLISON. Does the Senator from Colorado rise to the amendment which was passed over at my request last evening?

Mr. PATTERSON. I do. Mr. President, we had up yesterday evening one of the committee amendments, on page 23 of the bill, which, at the request of the chairman of the committee, went over until to-day.

The PRESIDING OFFICER. The amendment, on page 23, which was passed over, will be stated.

The SECRETARY. The amendment which was passed over was, on page 23, line 3, after the word "dollars," to insert:

Provided, That the Secretary of the Treasury be, and he is hereby, authorized to assign any officer or officers on the retired list of the Revenue-Cutter Service to any duty that they may be competent to perform, to take effect immediately.

Mr. PATTERSON. Mr. President, I think the amendment is subject to the point of order that it is general legislation. I raise that point of order.

The PRESIDING OFFICER. The point of order is sustained. Mr. WARREN. Mr. President, I offer the amendment which I send to the Secretary's table.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In the committee amendment already agreed to, on page 81, line 9, after the word "meridian," it is proposed to strike out the period and insert a semicolon and the following:

Township 21 north, ranges 116, 117, 118, 119, and 120 west of the sixth principal meridian; and township 22 north, ranges 117, 118, 119, and 120 west of the sixth principal meridian; and township 23 north, ranges 117, 118, 119, and 120 west of the sixth principal meridian; and township 24 north, ranges 117, 118, 119, and 120 west of the sixth principal meridian; and township 25 north, ranges 116, 117, 118, 119, and 120 west of the sixth principal meridian.

Mr. ALLISON. Mr. President, I am not familiar with the ranges and meridians referred to in the amendment and so I do not know whether the amendment is wise or otherwise, but having yielded improvidently to putting in this bill a provision describing lands, I shall not object to this amendment, but I shall look into it later when the bill goes into conference.

The PRESIDING OFFICER (Mr. LODGE in the chair). The question is on the amendment of the Senator from Wyoming [Mr. WARREN] to the committee amendment which has been already adopted.

The amendment was agreed to.

Mr. McCOMAS. I offer the amendment which I send to the desk, to come in after line 25 on page 23.

The SECRETARY. On page 23, after line 25, it is proposed to insert:

That the Secretary of the Treasury is hereby authorized to acquire a suitable site in the State of Maryland upon which to establish a depot for the Revenue-Cutter Service, and for this purpose the sum of \$30,000, or so much thereof as may be necessary, is hereby appropriated.

Mr. McCOMAS. Mr. President, I hope after I make a brief statement in regard to this amendment it may commend itself to the chairman of the Committee on Appropriations. I wish, first, to say that in this instance the Committee on Commerce has favorably reported the proposition contained in the amendment. It has been passed as a separate bill by the Senate on a report from that committee. The head of the Revenue-Cutter Service tells me that by leasing for four years past the ground he now desires to buy he has saved the Government in the Revenue-Cutter Service \$60,000, and that under the statute he can not hold the land, which has a water frontage of 1,900 feet, but which should be twice 1,900 feet, and will be if we can get the quantity of land which has thus been recommended to be purchased. He says that for painting, overhauling, and repairing all the revenue-cutter ships on the Atlantic Ocean and all this coast, this is the place to do it; that it is there done at small expense and at a great saving of wharfage charges; that it is exceedingly important that with the improvements they have been compelled to make on these leased premises they should have title to this one spot on Curtis Bay at Baltimore for this purpose, which is the most expedient, the most convenient, and the head of that Service says they can hardly get along without it. The Committee on Commerce has several times recommended the Senate to pass a bill for this purpose. Only a small amount of money is involved.

I am further informed—and I call the attention of the chairman of the Committee on Appropriations to this—that for \$15,000 they can hold the wharf frontage they now have. I hope in the public interest the chairman will accept my amendment. It is shown from the records that there has been a saving of \$60,000 in four years, and that we can get for \$15,000 1,900 feet of land. We need the rest, and I hope it will be the sense of the Senate that \$30,000 shall be allowed. I hope the amendment will be accepted. If in his duty as chairman of the committee the Senator from Iowa thinks differently, then I hope the Senate will repeat its action of passing this amendment for the benefit of all the Revenue-Cutter Service on the Atlantic coast.

My colleague [Mr. GORMAN] has also had information furnished to him touching this matter.

Mr. ALLISON. Mr. President, I should be very glad to see this property purchased, but undoubtedly the amendment is general legislation.

Mr. McCOMAS. How is it general legislation?

Mr. ALLISON. It provides for the purchase of property. I feel constrained to make the point of order against it that it is general legislation.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. GORMAN. Will the Senator from Iowa permit me on that point?

Mr. ALLISON. I withdraw the point of order.

Mr. GORMAN. Mr. President, we have just passed in this

bill within the last ten minutes provisions for the purchase of property for the construction of buildings, and for other such purposes. There are any number of such items in this bill. The amendment which my colleague has offered is in the interest of economy rather than an increase of expenditure. So I trust the Senator from Iowa will permit it to go into the bill.

Mr. ALLISON. I have withdrawn the point of order. It is impossible to resist such an argument on the part of the Senator from Maryland.

The PRESIDING OFFICER. Does the Chair understand the Senator from Iowa to withdraw the point of order?

Mr. ALLISON. I have withdrawn it.

The PRESIDING OFFICER. The question, then, is on the adoption of the amendment offered by the Senator from Maryland [Mr. McCOMAS].

The amendment was agreed to.

Mr. PERKINS. Mr. President, by reason of the recent action of the State of California in receding to the General Government the Yosemite National Park, an amendment is necessary upon page 86 of the bill relating to the Yosemite National Park. I send the amendment to the desk, and after it is read I desire to have read a letter from the Department of the Interior, addressed to the chairman of the Committee on Appropriations [Mr. ALLISON], and also one addressed to myself, which are explanatory of the necessity for this amendment.

I call the attention of the chairman of the Committee on Appropriations to the letter which is addressed to him, and which, in the great press of business, I am sure he has not had time to consider, as the communication came to the Senate after the bill had been reported from the Committee on Appropriations and while it has been under consideration in the Senate.

Mr. ALLISON. Mr. President, although the letter to which the Senator refers is dated March 1, I have had the opportunity of reading it. I am sure the date of the letter shows the pressure there is for this amendment. I have looked at it enough to see that because of legislation we have passed at the present session it is important to deal with this subject on this or some other bill.

Mr. PERKINS. After that statement by the Senator, I will ask that the letters may be printed in the RECORD, without occupying the time of the Senate with having them read, and that the amendment be now read.

The PRESIDING OFFICER. The amendment submitted by the Senator from California [Mr. PERKINS] will be stated.

The SECRETARY. On page 86 it is proposed to strike out from line 23 to the end of line 3, on page 87, as follows:

Yosemite National Park: For protection and improvement of the Yosemite National Park, and the construction of bridges, fencing, and trails, and improvement of roads, other than toll roads, to be expended under the supervision of the Secretary of the Interior, \$5,400.

And in lieu thereof to insert the following:

Yosemite National Park: The recession and regranting unto the United States by the State of California of the "Cleft" or "Gorge" in the granite peak of the Sierra Nevada Mountains, situated in the county of Mariposa, State of California, and the headwaters of the Merced River, and known as the Yosemite Valley, with its branches or spurs, granted unto the State of California in trust for public use and recreation by the act of Congress entitled "An act authorizing a grant to the State of California of the Yosemite Valley and of the land embracing the Mariposa Big Tree Grove," approved June 30, 1864 (13 Stat., 325), as well as the tracts embracing what is known as the "Mariposa Big Tree Grove," likewise granting unto the State of California by the aforesaid act of Congress, is hereby ratified and accepted, and the tracts of land embracing the Yosemite Valley and the Mariposa Big Tree Grove, as described in the act of Congress approved June 30, 1864, be, and the same are hereby, reserved and withdrawn from settlement, occupancy, or sale, under the laws of the United States and set apart as reserved forest lands, subject to all the provisions of the act of Congress approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations," as well as to the provisions of the act of Congress approved February 7, 1905, entitled "An act to exclude from the Yosemite National Park, California, certain lands therein described and to attach and include said lands in the Sierra Forest Reserve," and shall hereafter form a part of the Yosemite National Park.

All revenues derived from privileges granted under the act of October 1, 1890, the act of February 7, 1905, as well as under this measure, shall be paid into the Treasury of the United States, to be expended under the direction of the Secretary of the Interior in the management, improvement, and protection of the Yosemite National Park, and for the management, protection, and improvement of the Yosemite National Park, to be expended under the supervision of the Secretary of the Interior, the sum of \$26,000.

The amendment was agreed to.

The PRESIDING OFFICER. Without objection, the letters referred to by the Senator from California [Mr. PERKINS] will be printed in the RECORD without reading.

The letters referred to are as follows:

DEPARTMENT OF THE INTERIOR,  
Washington, March 1, 1905.

Hon. GEORGE C. PERKINS,  
United States Senate.

SIR: I have the honor to transmit herewith for your information a copy of a letter this day addressed to Hon. W. B. ALLISON, chairman

of the Committee on Appropriations of the Senate, recommending the enactment of legislation accepting the recession by the State of California to the United States of the Yosemite Valley and the Mariposa Big Tree Grove, the inclusion thereof in the Yosemite National Park, and appropriating \$20,000 for the management, protection, and improvement of that reservation.

In view of the action of the State in relinquishing the trust conferred upon it under the act of June 30, 1864, granting to the State the Yosemite Valley and the land embracing the Mariposa Big Tree Grove, and the necessity for providing adequate protection therefor, I trust that you will cooperate with the Department in its efforts to secure favorable action by the Senate upon the legislation desired.

Very respectfully,

E. A. HITCHCOCK, Secretary.

DEPARTMENT OF THE INTERIOR,  
Washington, March 1, 1905.

Hon. WILLIAM B. ALLISON,  
Chairman Committee on Appropriations, United States Senate.

SIR: By an act of Congress approved February 7, 1905, entitled "An act to exclude from the Yosemite National Park, California, certain lands therein described, and to attach and include said lands in the Sierra Forest Reserve," the boundaries of the park are those recommended in the report of the commission appointed under the provisions of the sundry civil act approved April 28, 1904, to examine into the conditions and situations in the Yosemite National Park, California, for the purpose of ascertaining what portions of said park are not necessary for park purposes, but can be returned to the public domain, etc., which was submitted to the Senate under date of December 5, 1904, and printed as Executive Document No. 34.

Within the metes and bounds of the Yosemite National Park, as described in the above-mentioned bill, is a tract of land known as the "Yosemite Valley grant," and just outside of the southern boundary of this park there is also a grant known as the "Mariposa Big Tree grant," said tracts having, under the act of Congress approved June 30, 1864 (13 Stat., 325), been granted to the State of California.

During the pendency of the bill for changing the boundaries of the Yosemite National Park a measure was introduced in the legislature of California looking to the recession and regranting to the United States of the "Yosemite Valley" and the land embracing the "Mariposa Big Tree Grove."

The bill in question is as follows:

"The people of the State of California, represented in senate and assembly, do enact as follows:

"SECTION 1. The State of California does hereby recede and regrant unto the United States of America the 'Cleft' or 'Gorge' in the granite peak of the Sierra Nevada Mountains, situated in the county of Mariposa, State of California, and the headwaters of the Merced River, and known as the 'Yosemite Valley,' with its branches or spurs, granted unto the State of California in trust for public use, resort, and recreation by the act of Congress entitled 'An act authorizing a grant to the State of California of the Yosemite Valley and of the land embracing the 'Mariposa Big Tree Grove,' approved June 30, 1864; and the State of California does hereby relinquish unto the United States of America and resign the trusts created and granted by the said act of Congress.

"SEC. 2. The State of California does hereby recede and regrant unto the United States of America the tracts embracing what is known as the 'Mariposa Big Tree Grove,' granted unto the State of California in trust for public use, resort, and recreation by the act of Congress referred to in section 1 of this act; and the State of California does hereby relinquish unto the United States of America and resign the trusts created and granted by the said act of Congress.

"SEC. 3. This act shall take effect from and after acceptance by the United States of America of the recessions and regrants herein made (thereby forever releasing the State of California from further cost of maintaining the said premises, the same to be held for all time by the United States of America for public use, resort, and recreation, and imposing on the United States of America the cost of maintaining the same as a national park: *Provided, however,* That the recession and regrant hereby made shall not affect vested rights and interests of third persons."

Under date of February 23, 1905, Hon. George C. Pardee, governor of California, telegraphed the Department as follows:

"Yosemite recession bill passed to-day; will probably be presented to governor to-morrow, and must be signed within ten days. Wire suggestions as to time and procedure for taking over by Federal Government."

Under date of February 25, 1905, the following telegram was sent Governor Pardee, to wit:

"Replying to telegram 23d, would state that if upon approval of Yosemite recession bill you will advise me by wire, Executive order will be at once issued reserving lands of Yosemite Valley and Mariposa Big Tree grants to protect them from possible entry. Matter will be at once brought to attention of Congress with view to including receded lands in Yosemite National Park and procuring appropriation for protection and administration thereof. What amount is annually appropriated by State for care of said grants, exclusive of salaries?"

In reply to the foregoing Governor Pardee, under date of February 27, 1905, telegraphed as follows:

"Yosemite recession bill will reach this office to-morrow and will be approved within ten days thereafter. Will advise you by wire immediately upon approval. Last biennial appropriation for care of Yosemite Valley and Mariposa Grove, exclusive of salaries, was \$34,500."

No further advices have been received up to this date from the governor, but in view of the expression of his intention to approve the bill in connection with the necessity for legislation at the present session of Congress, looking to the inclusion of the receded lands within the metes and bounds of the Yosemite National Park and the providing of appropriations for the care of the buildings on the Yosemite Valley grant and of the protection of the trees in the Mariposa grant, I have the honor to suggest the amendment of H. R. bill 18969, making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes, by striking out the paragraph on page 80 relating to the Yosemite National Park and inserting in lieu thereof the following:

"Yosemite National Park: The recession and regranting unto the United States by the State of California of the 'Cleft' or 'Gorge' in the granite peak of the Sierra Nevada Mountains situated in the county of Mariposa, State of California, and the headwaters of the Merced River and known as the 'Yosemite Valley,' with its branches or spurs, granted unto the State of California in trust for public use and recreation by the act of Congress entitled 'An act authorizing a grant to the State of California of the 'Yosemite Valley,' and of the



land embracing the "Mariposa Big Tree Grove," approved June 30, 1864 (13 Stat., 325), as well as the tracts embracing what is known as the "Mariposa Big Tree Grove," likewise granted unto the State of California by the aforesaid act of Congress, is hereby ratified and accepted, and the tracts of land embracing the Yosemite Valley and the Mariposa Big Tree Grove, as described in the act of Congress approved June 30, 1864, be and the same are hereby reserved and withdrawn from settlement, occupancy, or sale, under the laws of the United States and set apart as reserved forest lands, subject to all the provisions of the act of Congress approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations," as well as to the provisions of the act of Congress approved February 7, 1905, entitled: "An act to exclude from the Yosemite National Park, California, certain lands therein described and to attach and include said lands in the Sierra Forest Reserve," and shall hereafter form a part of the Yosemite National Park.

"All revenues derived from privileges granted under the act of October 1, 1890, the act of February 7, 1905, as well as under this measure, shall be paid into the Treasury of the United States to be expended under the direction of the Secretary of the Interior in the management, improvement, and protection of the Yosemite National Park. There is hereby appropriated, from any moneys in the Treasury not otherwise appropriated, for the management, protection, and improvement of the Yosemite National Park, to be expended under the supervision of the Secretary of the Interior, the sum of \$26,000."

It is understood that the State of California, pursuant to the authority contained in the act of June 30, 1864, supra, has granted leases of land for hotel and other purposes on the lands granted by said act, some of which have not yet expired, detailed information as to which will hereafter be supplied to the Department by the executive of the State of California for its information in connection with the management of the reeded lands.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

Mr. GALLINGER. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 85, after line 16, it is proposed to insert:

For rent of basement of the addition to main building of the United States Geological Survey, required for additional storage of documents, maps, etc., and for workrooms, \$1,500.

The amendment was agreed to.

Mr. GALLINGER. I also offer another amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 158, after line 14, it is proposed to insert:

That the excise board of the District of Columbia be, and it is hereby, empowered, in its discretion, to issue a license at the rate prescribed by law to the Columbia Golf Club, of the District of Columbia, subject to the regulations and restrictions now relating to other duly incorporated clubs.

The amendment was agreed to.

Mr. CLAY. If the chairman of the committee is through with the committee amendments, I have an amendment which I desire to offer, to come in on page 106.

Mr. ALLISON. There is one amendment, on page 70, which I desire to offer first.

Mr. CLAY. I yield, then, certainly, Mr. President.

Mr. ALLISON. On page 70, line 5, after the word "dollars," at the end of the line, I move to strike out the period and insert "\$7,000."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 70, line 5, after the word "dollars," at the end of the line, it is proposed to insert "\$7,000;" so as to make the clause read:

For the protection of the salmon fisheries of Alaska, including salaries of one agent, at \$2,500, and one assistant agent, at \$2,000; \$7,000.

The amendment was agreed to.

Mr. CLAY. I have an amendment pending, to come in on page 106, after the word "dollars," in line 18. I think the honorable chairman of the committee will accept the amendment without discussion.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 106, line 18, after the word "dollars," it is proposed to insert the following:

For the construction, complete, of a light-ship to be placed on the outer bar of Brunswick, Ga., \$90,000.

Mr. ALLISON. I wish to say to the Senator from Georgia that my disposition is to accept the amendment. This light-ship is estimated for, and therefore it is in order to offer the amendment, as I understand, but in view of the fact that there were a great number of light-houses, light-ships, tenders, etc., estimated for the Committee on Appropriations sent for the two secretaries of the Light-House Board, as I said yesterday, and asked them to select those light-houses, light-ships, tenders, etc., that were indispensable. They did so, and we have put in the bill provision for such as they selected. We refrained from putting

in the bill many other necessary items for the reason that we believed that the appropriation bills should be kept down to the lowest point consistent with the effective administration of governmental affairs. Therefore it is for the Senator as much as for the committee or any member of it to say whether or not, in the condition of our public finances, because of which we all understand that a reasonable economy should be preserved, the amendment should be pressed.

Mr. CLAY. Mr. President, the Senator from Iowa is always just and liberal, and when he understands the pressing need of the immediate construction of this light-ship I am sure he will make no objection to the adoption of the amendment. I want to say, Mr. President, that a bill passed the Senate a year or more ago providing for the construction of this light-ship. I have a letter here from the Secretary of Commerce and Labor, and also a letter from the Secretary of the Treasury, in regard to it. The Secretary of Commerce and Labor says:

Sir: Your letter of 12th of February, stating the condition of Senate bill No. 462, to construct and place a light-ship off the outer bar of Brunswick, Ga., and asking the opinion of the Department relative thereto, was referred to the Light-House Board for its opinion.

Now, here is the opinion:

In reply this Department has the honor to state that the Light-House Board, to whom the matter was referred, reports that in its opinion it is more important to the interests of commerce to establish a light-vessel off Brunswick, Ga., than it is to establish a light-vessel at any other place on our coasts which has not already been provided for by previous appropriations.

That is the statement signed by George B. Cortelyou, Secretary. There can not be any question that there is almost an absolute necessity for the construction of this light-ship.

I do not want, Mr. President, to take up the time of the Senate, but I hope the amendment will be adopted.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Georgia.

The amendment was agreed to.

Mr. PATTERSON. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 83, line 19, after the words "United States," it is proposed to strike out "one hundred and seventy-five" and insert "two hundred;" so as to read:

For geological surveys in the various portions of the United States, \$200,000, to be immediately available.

Mr. PATTERSON. Mr. President, I hope the Senator from Iowa will concede this rather small increase. The estimate of the Geological Survey was for \$200,000, and those of us who are required to call upon the head of that Survey to have work done in the mining regions that his department alone can do realize how important it is that this sum of money should be allowed him.

The head of the Survey desires to divide this \$25,000 as follows: For the extension of systematic field examination of the fuel resources of the United States, coal, oil, and gas, \$12,000; geological exploration of large districts in the West, concerning the geology and mineral wealth of which little is known, \$5,000; extension of geologic mapping in parts of the country containing important mineral deposits, \$5,000; extension of investigation of the iron ores of the United States, \$3,000.

Unless these sums, amounting in all to \$25,000, are granted the work in those directions will be at least most severely crippled, if we are not compelled to dispense with it altogether.

I do not desire, Mr. President, to take up the time of the Senate, but the wonderful developments that are taking place in the precious metal mining regions, as well as in the coal and iron regions; the experimentation that has been carried on by this Department on lignite and other coals for the purpose of increasing the amount of power that may be obtained from coal; the necessity for geological surveys and geological information as new mining camps are discovered, all call imperatively for such an appropriation as will not tie the hands of the Geological Survey. And since the head of that Survey, one of the most important departments of the Government, holds that this is an essential sum for the efficiency of his work—a more important work than which is not carried on by any department of the Government—I sincerely hope the chairman of the committee will consent that the amendment may be adopted.

Mr. STEWART. I know something about the investigations which are being made and their importance and the importance of this appropriation to carry them out. I do not care about going into details, but I hope the chairman will allow the amendment to go on the bill. I think it is useful. I am not generally for extravagance in appropriation, but this is an important item.

Mr. McCREARY. Will the Senator from Iowa yield to me for a moment?

Mr. ALLISON. Does the Senator wish to speak to the amendment of the Senator from Colorado?

Mr. McCREARY. I do.

Mr. ALLISON. Very well; I yield.

Mr. McCREARY. Mr. President, I desire to say that I am very much in favor of the adoption of the amendment proposed by the Senator from Colorado. I have a letter from the State geologist of the State of Kentucky, in which he very earnestly urges that the increase of \$25,000 be made. He says:

This increase is needed to cover the cost of testing coals and lignites of the United States, the more thorough exploration of certain districts with special reference to the occurrence of lignite beds, and the extension of investigations as regards iron ores.

I indorse what has been said by the Senator from Colorado, and I hope the chairman of the Committee on Appropriations, in charge of the bill, will not oppose the amendment.

Mr. ALLISON. Mr. President, I was very much interested in the statement of the Senator from Colorado as to how the \$25,000 would be used if that amount be agreed to. Of course we know, at least if we reflect a few moments we will know, that everything the Survey proposes to do with this \$25,000 it can also do with the \$175,000. The Director will not apportion these appropriations until they are passed.

Mr. PATTERSON. If the Senator from Iowa were aware of the great increase of claims and demands upon this sum by reason of the new reclamation service, I think he would not say or believe—and of course he would not say it unless he believed it—that these sums are not necessary for the particular works I mention.

Mr. ALLISON. I have no doubt they are desirable, but it is not possible for us, I submit to Senators, to appropriate all that public opinion demands for this survey. I know the importunities in every State for these surveys. I know, at least I think I do, where some of them have their origin. I have not the exact figures before me, but my recollection is that this bill as it stands appropriates for the Geological Survey \$1,395,000. We can not in a single year or in ten years make a geological survey and such examinations as the Director desires without drawing upon the Treasury for much larger sums than we can afford, and this year is a time, I think, especially when we ought not greatly to enlarge the appropriations for the Geological Survey, and they are enlarged in this bill in the aggregate \$200,000.

Mr. McCREARY. I desire to ask the Senator from Iowa a question. Did not the Chief of the Geological Survey, Mr. Walcott, in his estimate name two hundred thousand?

Mr. LODGE. Of course he did.

Mr. ALLISON. Undoubtedly.

Mr. NEWLANDS. Will the Senator from Iowa permit me to say that the appropriation for the present year, the appropriation made last year, for this very item, was \$200,000, and that it is reduced this year to \$175,000, while the demands on the fund are increasing.

Mr. ALLISON. Of course they are increasing. They will increase all the time. I know very well that the appropriation was \$200,000 last year, and I know very well how it got into the bill. Of course the Director of the Geological Survey will take, and take gladly, all the money we will give him, and he will expend it, I have no doubt, usefully; but the question for us here to determine, in view of the situation that surrounds us, is whether we shall keep continually increasing the general appropriations for the Geological Survey.

The Senator from Colorado says we ought to do it because of the reclamation legislation. The reclamation legislation ought reasonably to take care of itself. That fund is now richer than the United States. It has relatively more money than the United States has. Therefore it struck me—

Mr. WARREN. These expenses are not paid out of the reclamation fund.

Mr. ALLISON. There is no one, I think, who knows better than I do, because I have had reason to know it for some years, that the reclamation fund is a grasped fund, tied up, and money from it goes out only for certain purposes. We hear every day or two that we must do this, that, or the other, because of the reclamation fund. It seems to me that some of these things, if they are so essential because of the reclamation legislation, ought to be paid out of the reclamation fund and not from the General Treasury.

I have as high an opinion of the Director of the Geological Survey as have other Senators. I have an appreciation of the work he is doing. But he ought to agree to a reasonable appropriation for the Survey, and we ought here to take into view

the situation that surrounds us as respects economical appropriations.

Mr. LODGE. Mr. President, I have no doubt this is a meritorious increase; I am not familiar enough with it to be able to discuss it; but it is part of the general increase that goes on in the Geological Survey year after year. Whatever other appropriations are diminished, it always increases. I am not going to open up at this time the old discussion about the Geological Survey. That contest has been made on this floor and made very ably for a number of years and made with great force, but the Director of the Survey was absolutely successful in defeating it. Year after year we go on increasing, increasing, increasing in the Survey, and we have not yet a decent survey of the country.

Mr. PATTERSON. Geological survey?

Mr. LODGE. No.

Mr. PATTERSON. Do you say we have not a decent geological survey of the country?

Mr. LODGE. Not of the country.

Mr. PATTERSON. Perhaps not of the entire country, but if you go West—

Mr. LODGE. We have fragmentary surveys here and there.

Mr. PATTERSON. You can go West and get testimony from tens of thousands of mining men and other men that this survey is most accurate and has been of inestimable value.

Mr. LODGE. There is great difference of opinion about that. I am not going into that old discussion. But the surveys have been shown to be extremely inaccurate in a great many places. I did not say, however, that there were not portions of the country which have been well surveyed. But we have spent over a hundred million dollars on surveys, and we have not yet a good survey of the country; and it goes on mounting up, mounting up all the time, and now \$200,000 for testing coals is proposed, which goes into the same pocket.

I merely desire to utter my protest against this continual adding to the survey—these enormous appropriations. I know how useless it is to protest. The Director of the Survey has been here; I have seen him; he has been to see other Senators, I suppose. He is the most skillful money getter there is in Washington. I suppose he has communicated with the State geologists throughout the country. He knows exactly how the thing ought to be done, and he can get appropriations better than any other man under the Government, or any head of a Department.

Mr. McCREARY. Will the Senator permit me to interrupt him?

Mr. LODGE. But I do say that the Geological Survey appropriations are largely wasted.

Mr. McCREARY. I wanted to ask the Senator from Massachusetts a question before he took his seat.

Mr. LODGE. Certainly.

Mr. McCREARY. He was referring to the increase in the amount of the appropriation for the Geological Survey.

Mr. LODGE. I was.

Mr. McCREARY. Is it not true that the appropriations for all purposes have increased very much within the last few years? As the country grows, as the population increases, as our country is developed, we find it necessary to have more money for geological purposes, and we expect to increase the appropriation.

Mr. LODGE. Of course, there has been an increase in the area of the country—

Mr. McCREARY. The area has not been increased.

Mr. LODGE. But the survey has not been extended to the Philippine Islands.

Mr. McCREARY. We have found in many States, as in Kentucky, that we were richer in our geology than we thought we were in the beginning, and, of course, we want a geological survey. We want to know more about our geological resources. On that account we would like to have as much money this year as last. Two hundred thousand dollars was appropriated last year.

Mr. LODGE. The Senator may rest easy. He will not only get what was appropriated last year, but more. There is no year that the Geological Survey appropriation is not increased. Congress may keep down other appropriations, but it never ceases to rise.

Mr. McCREARY. It had \$200,000 for this purpose last year.

Mr. NEWLANDS. Mr. President, I think the Senator from Massachusetts is mistaken when he says that \$100,000,000 has been spent in the work of this survey.

Mr. LODGE. If the Senator will allow me a moment, I have not the time in the last forty-eight hours of Congress to go over it. I examined the figures some three or four years ago from



beginning to end. The survey of this country then had cost over a hundred million dollars.

Mr. NEWLANDS. The geological surveys?

Mr. LODGE. No; the surveys. The geological survey was the bulk of it. I am speaking of the endlessly duplicated surveys. A lot of this work is duplication.

Mr. NEWLANDS. There is a certain amount of surveying of the public lands that is done by the Land Office of the Department of the Interior.

Mr. LODGE. Yes.

Mr. NEWLANDS. I have no doubt that has been an expensive work.

Mr. LODGE. Then there is the Coast and Geodetic Survey. There is a military survey.

Mr. NEWLANDS. The Senator includes all the surveying done in the country?

Mr. LODGE. No. At that time the Geological Survey had spent some \$70,000,000. That is the great one.

Mr. NEWLANDS. I still insist that my impression is that the Senator must be mistaken.

Mr. GALLINGER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from New Hampshire?

Mr. NEWLANDS. Certainly.

Mr. GALLINGER. Will the Senator from Nevada permit me on one point, to which the Senator from Massachusetts alluded?

Mr. NEWLANDS. Certainly.

Mr. GALLINGER. And that is the appropriation for the testing of substitutes for coal, which tests were made at St. Louis.

When the appropriation was asked last year, I hesitated about it, thinking that perhaps it was a delusive notion which somebody had formulated; but a small appropriation was made. Those tests were made at St. Louis under the direction of the Geological Survey. I have taken occasion to read the report, and it seems to me that marvelous results have already been achieved in that direction, and that unless the tests which have already been made are for some inexplicable reason not as accurate as they appear to be, there is a future development in that direction which will warrant any reasonable appropriation by Congress. I am very glad, indeed, to know that an appropriation of, I believe, \$200,000 is to be made this year for that purpose.

If the Geological Survey accomplishes what seems probable in that direction, it will have returned ten times over all the money that has been expended upon it from its inception.

Mr. LODGE. The Senator understands that I did not attack that special appropriation. I only mentioned it to show that the Survey was constantly receiving large additions.

Mr. GALLINGER. So far as the general expenditures for the Survey are concerned, I have very little knowledge, except I have implicit confidence, from some considerable information, of the great talent that has been gathered in that Bureau of the Government, if we may call it such, and of the honest manner in which the expenditures have been made. I think we certainly should not be niggardly toward the Survey. I do not think we have been in the past. For my part it is one of the departments of the Government toward which I want to be very generous, although it has very little relation to my own part of the country.

Mr. NEWLANDS. Mr. President, I quite agree with the Senator from New Hampshire that marvelous results have been accomplished by the Geological Survey.

I rose to protest against what I regarded as an exaggerated statement, unintentionally exaggerated, as to the cost of the Survey in the past; and I now find that the Senator from Massachusetts has been including in his estimate all the general surveying apparently that has been done in the country.

Mr. LODGE. Will the Senator excuse me? I do not want him to misstate me. I said the Geological Survey amounted to \$70,000,000, and I will keep it at that.

Mr. NEWLANDS. Very well.

Mr. LODGE. I included all surveys when I said \$100,000,000. It was \$70,000,000 for the Geological Survey some years ago.

Mr. NEWLANDS. I think the Senator must be mistaken in that statement.

Mr. LODGE. I am not.

Mr. NEWLANDS. I am told that in this bill the appropriation for the entire Geological Survey does not exceed a million and a half dollars. The Senator from Iowa nods assent. I do not know for how many years the Survey has been in existence, but certainly not in any very expensive form for many years. The Senator from Colorado [Mr. PATTERSON] says not more than thirty years. Assuming that in the very infancy of the Survey the appropriations were as large as they are to-day, the total

appropriation could not amount to more than \$45,000,000; and yet we do know that the Survey had an infancy. We know there was a period of limited appropriations, and it was only as the value of the service was demonstrated to the entire country that the appropriations increased.

Mr. President, the men from the West, the men from the Middle States, the men from the mining States, whether the States engaged in coal and iron mining or in mining the precious metals, all realize the great value of this scientific Bureau of the Government. There is not a man from the West who has not been brought in contact with these men in their active work of investigation and exploration, and there is not a man in the West who does not admire the esprit de corps of the Survey, the splendid spirit that animates it, the energy and the enterprise and the intelligence and the patriotism which they exhibit in their work.

I undertake to say there are men in the Survey who in private employment would receive two and three and four times the compensation which they now receive, and that their work is in a sense patriotic work and demonstrates that the Government can secure service at a less rate than private employers.

As to the \$200,000, we have the fact that \$200,000 was appropriated last year. Why should it be diminished this year when confessedly the work of the Survey is gradually enlarging. In addition to that an appropriation of one million and a half of dollars is infinitesimal as compared with the total appropriations of this Government, aggregating \$600,000,000 and more. This is an appropriation for the internal development of the country. If we can appropriate seventy-five or a hundred million dollars for our Army, if we can appropriate one hundred million dollars for the extension of our Navy, if we can appropriate these immense sums for our defense against foreign foes and in the external development of the country, can we not appropriate one million and a half dollars toward this important work of exploration and investigation as to the resources of the country, from which countless wealth will be derived in the future?

The Senator from New Hampshire [Mr. GALLINGER] referred to just one line of investigation pursued by the Geological Survey which is worth more to the country than the entire appropriation for this year—the million and a half dollars. That is the demonstration of the value of lignite in the West—lignite, not coal—an inferior product existing in large quantities in the West and heretofore regarded as almost valueless.

Mr. PATTERSON. In reference to lignite coal, I wish to give the figures of the great saving that these experiments have demonstrated can be made. Where to-day with lignite coal 4.7 pounds are required to secure 1 electrical horsepower—that is, where steam is produced by coal—1.7 pounds of coal will produce the same result—1 electrical horsepower. This is secured by the direct application of the gas generated from the coal under the process the Bureau has devised.

Mr. NEWLANDS. That is from lignite?

Mr. PATTERSON. From lignite; the gas of lignite applied directly to the production of power.

Mr. ALLISON. Allow me to make a suggestion. In this bill we have appropriated \$202,000 for further inquiries.

Mr. PATTERSON. These figures are only given for the purpose of showing the vast importance of this particular work under the Survey, and the vast economy that this work will enable the people of this country to practice in the immediate and in the distant future.

Mr. NEWLANDS. Mr. President, I am very glad to have the words of approbation of the Senator from Colorado in reference to the importance of this work. This discovery of the power of lignite alone is worth many times the present appropriation. They are pursuing their experiments still, at a small cost to the Government. I believe the cost estimated for that under this additional item of \$25,000 is only \$12,000.

Now, so far as the Director of the Geological Survey is concerned, I am sure that, as a Senator of the United States, I am glad to receive his suggestions as to the requirements of the Survey, regarding the exploration and the investigation of the country. There is not a man in the West familiar with the work who does not realize that the Director of that Survey is not only a man of high scientific attainments, but of great administrative capacity; and it is very hard to find these qualities united in one man. Such a man in private employment would receive a salary largely in excess of that which he now receives, and he, as well as other men connected with the Survey, are, in my judgment, remaining in the service of the Government because of their devotion to their work. So far as I am concerned, I welcome a suggestion from this officer as to the needed appropriations for the extension of the work of this great Survey.

Mr. President, we do not ask an increase above the appro-

riation of last year. We simply ask that this appropriation shall stand, and that the internal development of the country shall receive some attention from legislation as well as the question of national defense against foes thus far unseen.

Mr. TELLER. Mr. President, I think I may say this is the annual attack on the Geological Bureau. The Senator from Massachusetts [Mr. LODGE], I observe, spoke of its great expense. I do not believe the amount of money expended for the Geological Bureau is anything like what he supposes. I think very likely the whole amount of money expended on surveys in the United States since we became a Government may amount to the sum of money he speaks of. But the Geological Survey does a work that every intelligent country in the world is now doing. I will confess that this effort to discover what nature has done for a country is somewhat modern. Nevertheless, to-day there is not a nation in the world that may be called enlightened which is not doing this kind of work.

We have a great expanse of country that is called the West. It is a mineral country. It is full of coal; it is full of iron; it is full of lead; it is full of copper and gold and silver and other metals. It may be said of the State of Colorado, I believe, that practically every metal in the world which is of any commercial value can be found in that State.

About thirty years ago the Government began an examination of the natural wealth of that country by a geological survey. A map was produced after several years that delineated in colors what was the gold-bearing region and what was the silver-bearing region; where coal could be found and where copper could be found. A limited number of those maps were published. The miners took those maps and went out into the country where there had been no settlement and found that the maps were correct, and more than one mining camp was established on the basis of that map and that survey.

The West has had more advantage of this Survey than any other section of the country. We have produced 99 per cent of all the precious metals that have been produced in the United States since 1848. This country has produced nearly one-third of the world's gold and silver during that time, and it has all been produced in the West. We are entitled, by virtue of our production, by virtue of the natural wealth, by virtue of the necessities of that country, to have liberal appropriations for this purpose.

In the last eight years you have spent more than twenty times as much money in attempting to elevate and civilize the Philippine people as you have ever expended west of the Mississippi River from the time we became the owners of the country up to the present time. In my judgment, it comes with ill grace for any Senator to stand on this floor and contend that \$200,000 is an unnecessary sum to determine the value of the metal and the natural products of an area of country nearly, if not quite, one-half of that of the United States, and if you include Alaska, which ought to come within the dominion of the efforts of the Geological Survey, considerably more than one-half.

We have had at St. Louis an examination through this Bureau of the great coal wealth of this country, a wealth that is unsurpassed by that of any other nation in the world, and, as my colleague has said, the Survey has demonstrated that what we had considered the most worthless coals of the continent are in some respects the most valuable, because they produce a greater quantity of gas to the ton.

It is not worth while for anybody to prophesy what is going to happen in this country. No man heretofore has been wise enough to say what would be the mechanical and scientific development of this great country of ours. I want to say that, in my judgment—it may not be worth much—the great power and the great instrument of productive power in the future will not be steam, but gas made of coal; and if we can demonstrate by methods that are scientific, and at the same time practicable, that gas can be made out of coal twofold where it can be made by any other method, we shall be adding millions and hundreds of millions to the wealth of this country.

The development, in my judgment, at St. Louis is worth more to the people of the United States than the entire money spent on that exposition, great as it was. That is a beneficial result that the people will feel and realize for hundreds and doubtless for thousands of years.

Mr. President, the Geological Bureau has done work that has been beneficial in every possible direction. It has been a credit to this nation, and it has been discreditable to us as a nation that we have not covered, with the efforts of those people, every acre of American soil, especially in the unknown and untried regions of the West. I represent in part here one of the new States. I represent a State where, when I went to it forty years ago and more, it was, you may say, a wilderness. That State

has produced since I have been a citizen of it nearly one thousand million dollars of the precious metals. It has coal fields that are unequaled by any State in this Union, unless it be some sister western State. We have vast beds of bituminous coal and vast beds of other kinds of coal of every grade and every character. England's success and England's prestige as a manufacturing country grew out of the fact that she had cheap coal, and in that way she could produce cheap manufactures.

Mr. President, this Geological Bureau has been an enterprising, pushing bureau. As the Senator from Nevada has said, there are, I know, men connected with it who can leave that Bureau and go out into the world and accept financial offers very much in excess of what they are receiving from the Government of the United States. There is no reason in the world why we should grant less to that Bureau to-day than we granted last year, unless there is some misconduct, some neglect, some inattention, some incapacity established here against the Bureau. It stands to-day, I will venture to say, the equal of any scientific investigating bureau in the world for the character of the men who are directing it.

Mr. ALLISON. We appropriate more for it this year than we did last.

Mr. TELLER. We appropriate more in one direction, but not in the geological division. The Bureau has been charged not only with the investigation of the geological features and the mining wealth of the country, but they were intrusted and charged with this other duty of determining the character of coal and its capacity for effective use. That perhaps does not belong strictly to the Bureau; it might belong to some scientific body established; but it is scientific work that that Bureau was glad to do, and it has done it in a way, I repeat, that can not be measured in dollars and in cents at this time.

Mr. President, I think we are entitled to the additional \$25,000 suggested by the amendment of my colleague. I think we would be entitled to more, although this is said to be an era of economy and saving of expense. I have not the voice to go into any discussion and show the absolute waste of money in pretty nearly every bill that has been before this body during the present session in appropriating money for useless purposes. If we would economize in that direction we might not be liberal, but we might be at least fair to these other enterprises and other interests that are demanding our attention infinitely more than either the Army or the Navy.

Mr. MORGAN. Mr. President, I do not know that I am going to be in anyone's way or in the way of any appropriation bill in making a few additional remarks supplementary to the very excellent observation submitted by the Senator from Colorado. This Geological Bureau has contributed within the last ten years more to the actual, present, and prospective wealth of the United States than any other institution we have ever had in this country.

I wish now not to add anything to what the Senator from Colorado has said about the great necessity and the great advantage of making these coal tests, which are obvious to anyone who has ever looked into the subject at all, but to call attention to another feature of the work of the Geological Bureau—I call it a "bureau." It has added more and at the most opportune moment to our wealth than any other discovery that has been probably made in many, many years.

There lies across the States of Mississippi and Alabama and into southwestern Georgia, running from northwest to southeast, a great chalk formation called in that part of the country "rotten limestone." It is the same chalk that underlies the English Channel between Dover and Calais and runs down through France to Paris. Out of that chalk is manufactured Portland cement, which has got to be, not only in this age, but was thousands of years ago, the structural material out of which the greatest and most powerful monuments have been built.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House further insisted upon its disagreement to the amendments of the Senate to the bill (H. R. 16986) to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes, upon which the committee of conference have been unable to agree, asked a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HEPBURN, Mr. MANN, and Mr. ADAMSON managers at the further conference on the part of the House.

#### GOVERNMENT OF THE CANAL ZONE.

Mr. KITTREDGE. I ask that the message from the House relating to the canal bill be laid before the Senate.

The PRESIDENT pro tempore laid before the Senate the ac-



tion of the House of Representatives insisting on its disagreement to the amendments of the Senate to the bill (H. R. 16986) entitled "An act to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes," and requesting a further conference with the Senate on the disagreeing votes of the two Houses.

Mr. KITTREDGE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16986) to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes, having met, after full and free conference have been unable to agree.

A. B. KITTREDGE,  
J. H. MILLARD,  
A. P. GORMAN,

*Managers on the part of the Senate.*

W. P. HEPBURN,  
JAMES R. MANN,  
W. C. ADAMSON,

*Managers on the part of the House.*

The report was agreed to.

Mr. KITTREDGE. I move that the Senate further insist upon its amendments to the House bill and accede to the request of the House for a further conference.

The PRESIDENT pro tempore. The Senator from South Dakota moves that the Senate further insist upon its amendments and agree to the conference asked by the House.

Mr. GORMAN. Mr. President, of course this request ought to be complied with and a further conference granted, but it is due to the Senate to say that while of course the conference must be perfectly free and without instructions from either body, this is rather a peculiar case. The act of two years ago expires on Saturday morning.

Mr. PLATT of Connecticut. May I interrupt long enough to know just what it is that is before the Senate now?

The PRESIDENT pro tempore. The question of a conference on the Canal Zone bill.

Mr. PLATT of Connecticut. Do the conferees report an agreement or a disagreement?

The PRESIDENT pro tempore. A disagreement, and there is a request from the House for a further conference.

Mr. FORAKER. On what point is the disagreement?

Mr. PLATT of Connecticut. The Senator from Maryland, I suppose, was proceeding to state it.

Mr. GORMAN. Mr. President, I do not happen to have the act before me, but the present law places in the hands of the President the government of that strip which we acquired for the purpose of the construction of the canal, giving him full authority to exercise whatever rights may be necessary there under the treaty. The limitation is to the 4th of March—next Saturday.

There has not been time on the part of those who are engaged in the administration or on the part of either House of Congress during the short interval to determine with any reasonable certainty what changes should be made, what additional powers should be granted, or what restrictions should be imposed. But there is one thing that all who have examined the question are agreed upon, and that is that some further extension of the time should be granted. The general proposition contained in the bill was to extend that time until the end of the next regular session of Congress. There are other provisions contained in the bill upon which there is no special disagreement, but we are brought face to face with the general proposition, which comes from another quarter, that unless you undo and change the whole law as to the construction of the canal as provided in the act of Congress known as the "Spooner Act," probably nothing can be done.

Now, I want the Senate, so far as I am concerned, to know that this is rather a serious matter. I wish to state further that the universal rule in all conferences has been—and of necessity it must be if we are ever to reach decisions—is that the House proposing the change in existing law when objected to by the other must give way. So far as I am concerned, while ready to obey the will of the Senate in anything, in a conference of this sort it becomes a matter of very great concern.

Mr. PLATT of Connecticut. Let me see if I understand just what the situation is as between the conferees on the part of the Senate and on the part of the House. If I remember correctly about the bill, there were quite a number of amendments to it.

Mr. GORMAN. Yes.

Mr. PLATT of Connecticut. But there was an amendment

which was of a good deal of consequence. The House abolished the Commission and put the whole administration of the Canal Zone in the hands of the President through the War Department.

Mr. GORMAN. Yes.

Mr. PLATT of Connecticut. And the Senate did not agree to that. I suppose it is that amendment of the bill over which the controversy arises.

Mr. GORMAN. That is the kernel of the whole controversy.

Mr. PLATT of Connecticut. If the bill fails, the act which we passed in 1904, perhaps, giving authority until the expiration of this Congress on March 4, fails also. Now the conferees on the part of the House insist that the Commission must be abolished and the matter put in the hands of the War Department; and the Senate stands by its amendment continuing the Commission.

Mr. GORMAN. The condition is as the Senator from Connecticut states it.

Mr. PLATT of Connecticut. Do I understand that there is no prospect of an agreement?

Mr. GORMAN. I will not say that, because I can not conceive that it should be the attitude in any body to prevent an agreement upon a matter that is so perfectly plain, when the Senate stands ready to extend the provisions of the present law until the end of the next regular session of Congress.

Mr. PLATT of Connecticut. There has been some proposition of that sort on the part of the Senate conferees?

Mr. GORMAN. Unquestionably; that is the attitude of the Senate conferees.

Mr. PLATT of Connecticut. And that is refused on the part of the House?

Mr. GORMAN. As far as we have gone.

Mr. HALE. The Senator from Maryland is a member of the conference committee. The Senator in charge of the bill has reported a general disagreement and has asked that the Senate agree to the proposition of the House for a further conference.

I call the attention of the Senator from Maryland, especially as an old parliamentarian, to this statement of the condition, either at this stage upon this report or upon the next report I think the Senate should be put in full possession of the particular questions which have given rise to the deadlock, if it is that, and the efforts which have been made by the Senate conferees to come to some agreement upon the suggestions they have made, so that we may know whether the attitude of the House is that we must take a certain proposition or take nothing. I do not say that the Senator in charge of the bill or the Senator from Maryland should at this stage disclose to us precisely the whole situation, but either now or quite likely better on the next report, unless they do agree, the Senate should be put in possession of the whole situation and should know what propositions have been made by our conferees and why they have been rejected, or the reasons given, so that at last upon this most important matter we shall be able to show and the country will be able to see just where the responsibility lies.

I make this suggestion to the Senator from Maryland and the Senator from North Dakota that they may decide themselves. I do not say that it should be made now. Quite likely it is better that another effort should be made to come to an agreement before the final crisis arises. I have no doubt the conferees on the part of the Senate will fully illuminate the Senate and the country.

Mr. MORGAN. Mr. President, I desire to make a statement of the situation in regard to this bill, as I understand it as a Senator, not as a conferee.

Both Houses have agreed to the proposition in their votes (I do not speak of the conference vote) that it is necessary to extend the act of 1904 until the end of the next session of Congress in order to enable the President to govern the zone, not to enable him to build the canal, but to enable him to govern the zone. The provisions for building the canal are found in the Spooner law. That has not been repealed. They stand there for the benefit of the President and those who are engaged in the construction of the canal.

Mr. GORMAN. I should like to have order. I can not hear the Senator from Alabama as near as I am to him. I would be glad to have an opportunity to hear him.

Mr. MORGAN. I will repeat that the provisions of the Spooner law, which alone relate to the construction of the canal and to the powers under which the canal is to be constructed, and also the provisions for its construction remain in force, and no one has any idea or proposition to repeal them. So the present bill, in respect to the points of disagreement, relate, as I understand it, to a change in the Spooner Act.

Now, what change is sought to be made? The President in his message has recommended a change in the Spooner Act so that the Commission shall be reduced to five or preferably to three. I do not understand that he has recommended the abolition of the Commission entirely. But it seems the House has understood the President's recommendation differently, or else it is disposed to overrule it, because the House insists upon abolishing the Commission. So far as I am concerned I have no objection to the abolishment of the Commission, because I have always been opposed to having any commission whatever engaged in the construction of this work. I wanted the power to rest with the President, to be exercised through the War Department and such engineers and other persons as he saw proper to employ, he assuming the responsibility and having, as he ought to have, the power to meet that responsibility without interference by a commission or anybody else.

Now, the Spooner Act contains a provision for a commission of seven. They are to hold their offices, really during good behavior, until the canal is completed. The President is to fix their salaries, but certain powers are given to them which appear to be independent of the President, that is to say, he must employ engineers, contractors, and other persons to engage in this work through the Commission. Exactly what the word "through" means nobody has been able to decide, but the President very properly gives to it, I understand, its full and broadest signification, and says: "I am obliged to confer with these gentlemen before I can make the appointment of an engineer or contractor or of any person else to assist in the work. It is true I have the right to disapprove what they recommend, but I must still make appointments and employments through them." I think that was a very unfortunate expression, that the President having the responsibility of constructing this canal should be compelled to do it through somebody else.

Now, I mention two points of power the Commission has had: One is the employment of engineers, and of course the letting of contracts and the like of that, subject to the approval of the President. The other is that all these employments and all this work on the canal shall be done through an isthmian canal commission. Some embarrassment seems to have sprung up about it. I can not explain it because I have never been in a position to know anything about what was going on in that canal matter except what I got out of the newspapers. But there is an evident obstruction there. If the President must do this work through the Commission, make his appointments and the contracts through the Commission, the Commission has got more power than it ought to have. It might do very well if its powers were only those of consultation and advice, but when he has got to depend upon their consent and their action it is quite a different matter.

The Commission has lost one of its members by resignation. That brings up the broad question, Has the President the right to proceed upon the idea that a quorum or a majority of that Commission have a right to act? There is no such provision in the statute. We have created it as a joint body. Suppose that a majority of that Commission should resign or be displaced by the President or displaced in any way, then what would become of the Commission? It would be lost. Its place would have to be supplied, if the President must do his work through the Commission, and if these things should occur in the recess of Congress he would have to wait until we got back here, unless there is some provision of law by which he has a right to make appointments in vacation.

There is another difficulty, and a very serious one. I hope the President's view of this matter is to concur with the House, to get rid of the Commission entirely. It is not worth anything to the President, except as an assistance, and he can call assistance in from anywhere he pleases independently of this provision.

The President has the right to remove every one of these Commissioners without conferring with Congress. It is absolutely in his discretion to remove them. Therefore, as the law stands, under the Spooner Act he can get rid of the Commission by removing them. He prefers not to take that responsibility, but to have Congress remove them, instead of being removed by the repeal of that much of the Spooner Act as relates to the tenure of office.

There is the situation in which we are involved. I am informed—of course, I do not speak by the card; I am not speaking from any information that I have from any of the conferees—but I am informed otherwise, particularly by the debates in the other House, that the House is determined upon adhering to its proposition to repeal this Commission. In what position does that leave us? Suppose it leaves us without any Congressional act, by the expiration on the 4th day of March

of the act under which they are now acting, in what position does that leave us? Mr. President, I insist, although both Houses seem to have taken a different view and to have voted differently, that with the Spooner law and the Hay-Varilla treaty and the laws of nations we have got all the law we need there for the government of that zone.

The Spooner law gives all the power to the President that is necessary to construct the canal, and the appropriations made by the Congress of the United States give him all the money he wants and make provision for borrowing money in the event that our Treasury should get low in its supplies, so that if the conferees come to a deadlock and refuse to agree upon any bill whatever that canal is not going to stop. If it does it will be because the President refuses to exercise the powers Congress has placed in his hands under the Spooner law and under the Hay-Varilla treaty.

What I am anxious about, Mr. President, is that there shall be no opportunity left for the abandonment of the work at Panama upon the ground that Congress refuses to give the President power to carry it on. If this conference committee can not agree and there is not one line of legislation added to what is already in force on the statute book, the President has ample power to govern the zone under the Spooner law, under the treaty, and under the laws of nations. Governing the zone is a small matter. The more important matter is that he should have power and plenty of money to go on with the work. He can dismiss the Commissioners if he wants to do so, because he has a right to remove them. If they are in the way he has nothing to do but to remove them, and go on without the Commission.

I am only interested in the proposition that no man shall say that the failure of the Panama Canal—which I fully expect—shall be imputed to any delinquency, delay, interruption, or obstruction on the part of Congress. Congress has given ample power, and if this bill here should fail ample power remains to construct the canal, ample money, full discretion, and all that is necessary.

I said that I did not expect the canal to be built. I had better qualify that by saying that if we ever dig down to the sea level I do not expect that we will be able to maintain it for six months. It will tumble in. A place where, 70 feet above sea level, sharks' teeth were found by our former Commissioners, who testified to the fact, is a place where, Mr. President, I do not believe it is proper to build a canal, unless it is inclosed in a wall or half tube of cement or stone, or something of that kind, that will make it impervious to water.

Another fact stated by them upon their oaths was this: That in the bottom of the wells that were dug there by the French Panama Canal Company down to the depth of 70 feet above sea level hardpan was found. They tried to dig it with picks but made very slow progress in that way. It was very hard. Then they tried to blast it, but they could not blast it because it had no continuity, and the blasts would blow out. They could not get it up with powder blasts because it was not stratified. They took specimens from the bottoms of these wells, carried them to the surface, and dissolved them, and what was the effect? There was little or no residuum left in the vessels, but it dissolved like sugar or salt. That is the material in which the body of this canal is to be laid when they get down to the sea level—the dump of volcanoes and earthquakes in the surrounding country have been turned into what is evidently an old strait extending from the Pacific to the Atlantic, as the Chinese have it in their traditions, handed down in their history. That is the kind of country we are dealing with.

We need not, Mr. President, proceed upon some imaginary situation, but should act upon the facts as they are. The bottom of that canal when you put it there will be of the material described by Colonel Ernst in his testimony; and he need not have sworn to anything to convince me of his honesty or his truth, because he is as honorable and enlightened a man as there is in the United States. He was one of the Commissioners of the old Panama Canal Commission, and he testified to the soluble character of this material, which will be the bottom of that canal.

You build a canal there 35 feet deep, 150 feet wide, or, as some want it done, 200 feet wide, and carry through a ship from 500 to 700 feet long and drawing 25 or 30 or 34 feet of water. If you leave but 4 feet between the keel of the ship and the bottom of the canal and you propel it with its own steam through that channel, it will draw the whole of that soft material after it and carry it out to sea—that is all of it—and it will not be long until this wall of cut-stone work—that was provided for by the last Isthmian Canal Commission for the



purpose of offering a defense against this very condition—18 miles long, 50 feet high, 12 feet at the base, and 4 feet at the top, with these ships moving over the bottom of that canal, will tumble in; and there you will be.

Mr. PLATT of Connecticut. Will the Senator from Alabama permit me?

Mr. MORGAN. Certainly.

Mr. PLATT of Connecticut. I understood the Senator to say that even if we did not extend the provision which expires on the 4th of March there will be plenty of power left under the Spooner Act for the President to construct that canal and also to govern the zone?

Mr. MORGAN. Yes; under the Spooner Act, the Hay-Varilla treaty, and the laws of nations.

Mr. PLATT of Connecticut. I think the Senator is certainly correct as to the power to construct the canal, but I should like to get his opinion as to where the power to govern the zone is derived from in the Spooner Act and in the treaty; that is, where the President would have the right to govern the zone? I ask the Senator for information.

Mr. MORGAN. This, Mr. President, is, to say the least, annexed territory. Whether the civil rights and political rights which heretofore have prevailed in Panama across that 10-mile zone have been acquired by the United States makes no difference. We have got the right of possession; the right of control; and we have every property right that anyone could possibly own in that zone.

Now, we are on stronger ground there than we were in New Mexico when Doniphan took possession of that country by force of arms. Doniphan remained there for about two years enacting laws—criminal and civil codes—under what? Under the laws of nations; and no other power but the laws of nations. Congress did nothing; said nothing. They let him have his way.

Mr. PLATT of Connecticut. But that was military occupation.

Mr. MORGAN. And so is it military occupation down there at the zone. But the right and power of government is the same, whether we conduct civil or military government there.

Mr. PLATT of Connecticut. I wanted to know the Senator's idea on that subject.

Mr. MORGAN. So long as the occupation is lawful it does not make any difference whether the government is military or civil, under the powers that the President of the United States has the right to exercise there. I will state again, as I stated the other day to the Senate, that if we had never enacted any law except the Hay-Varilla treaty and the Spooner Act the President of the United States would be there in possession to-day with full power to govern that zone. He could legislate for it as Doniphan did in New Mexico, upon the simple proposition that an officer of the Government of the United States, under orders of the President, who was in possession of the Territory of New Mexico, had the right to enact laws, and did enact civil and criminal codes, and those codes were brought by appeal on writ of error to the Supreme Court of the United States and were affirmed as being valid and operative law, though they were enacted by a colonel commanding the cavalry, I believe, or some military force out there.

There is no mistake about this, I think. The power to govern the zone is absolute in the President under the laws of nations until Congress intervenes and prescribes for him some new power. Now Congress has intervened, and the intervention will stand until the 4th day of March, the present month. If that time passes and no new provision is made, we stand right where we did before we enacted that law, and the President of the United States is in possession of territory belonging to the United States to which no act of Congress has been made applicable for the purposes of government, unless the Spooner Act has some reference to government also, and under the laws of nations and under the treaty provision, which is pretty ample, the President of the United States can go on and govern that territory, and no man can say "nay" to him—nobody.

So the President has got plenty of power. I have not any trouble about the power of the President to govern the Canal Zone. Really I would rather leave it in that condition, because he would govern it through the military; and it has always been my opinion that that canal could never be constructed with security and rapidity and with proper protection unless it was treated as a military reservation and put under military power.

Mr. PLATT of Connecticut. So that if this conference results in a deadlock and we can not get any legislation this year, it is the opinion of the Senator from Alabama that we can still go on and govern that zone?

Mr. MORGAN. Without any question, and without any embarrassment, either.

Mr. CULLOM. And carry on the work?

Mr. MORGAN. So long as you leave the Spooner Act alone and do not repeal the treaty by which we got possession of that strip of country, and paid the money for it, the President's power to govern it is just as broad as Doniphan's was, to say the least of it, in New Mexico, and broader than that—very much broader.

Mr. SCOTT. Will the Senator from Alabama allow me to ask him a question?

Mr. MORGAN. Certainly.

Mr. SCOTT. Is it the opinion of the Senator from Alabama that it is better to have one party in charge that we can hold responsible, than to be dividing the responsibility amongst a possibly irresponsible commission?

Mr. MORGAN. Yes; and I think that is the opinion of every man of experience in the world, that divided responsibility is always an element of weakness—necessarily so. You have confidence in the President of the United States. Let him go ahead. I have confidence in him in respect to this matter. That is all I will say now, Mr. President.

The PRESIDENT pro tempore. The Senator from South Dakota moves that the Senate still further insist on its amendments disagreed to by the House of Representatives and agree to the request of the House for a further conference.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. KITTREDGE, Mr. MILLARD, and Mr. GORMAN were appointed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 18467) making appropriations for the naval service for the fiscal year ending June 30, 1906, and for other purposes, further insist upon its disagreement to certain amendments upon which the committee of conference have been unable to agree, asks a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. FOSS, Mr. DAYTON, and Mr. MEYER of Louisiana managers at the conference on the part of the House.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President pro tempore:

S. 4069. An act to provide for the performance, temporarily, of the duties of appraisers and assistant appraisers of merchandise;

S. 5203. An act providing for resurvey of township 19 north, range 6 east, Montana meridian, Cascade County, State of Montana;

S. 6644. An act to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain, subject to entry under the homestead law, with certain restrictions;

S. 6647. An act granting to the Choctaw, Oklahoma and Gulf Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes;

H. R. 2927. An act granting an increase of pension to James C. Hall;

H. R. 4390. An act granting an increase of pension to Francis W. Seeley;

H. R. 11743. An act granting an increase of pension to Charles H. Baird;

H. R. 15322. An act correcting the record of Nelson S. Bowdish;

H. R. 15390. An act granting an increase of pension to Augustus C. Foster;

H. R. 15705. An act granting an increase of pension to James M. Champe;

H. R. 16878. An act granting an increase of pension to William Spriggs;

H. R. 17329. An act granting an increase of pension to Abraham Roberts;

H. R. 17580. An act validating certain conveyances of the Northern Pacific Railroad Company and the Northern Pacific Railway Company;

H. R. 17934. An act to provide for a land district in Wasatch,

Uintah, and Carbon counties, in the State of Utah, to be known as the "Uintah land district," and for other purposes;

H. R. 18200. An act to amend section 4414 of the Revised Statutes of the United States;

H. R. 18202. An act to amend sections 4415, 4416, 4423, 4426, 4449, 4452, 4470, 4472, 4498, and 4233 of the Revised Statutes of the United States, relating to steamboat inspection;

H. R. 18513. An act to extend the time for the commencement and completion of a bridge across the Missouri River at or near Pierre, S. Dak.; and

H. J. Res. 193. A joint resolution providing for the publication of 3,000 copies of Bulletin No. 27 of the Bureau of Animal Industry, entitled "Information Concerning the Angora Goat."

#### SUNDRY CIVIL APPROPRIATION BILL.

Mr. HALE. Mr. President, in the absence of the Senator from Iowa [Mr. ALLISON], I hope we shall go on with the sundry civil appropriation bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 18969) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes.

Mr. MORGAN. Mr. President, I want to add just a few words to a statement I had not completed at the time this conference report came in, about the chalk belt out of which Portland cement is made, which is found, as I have stated, in the States of Mississippi and Alabama and running into Georgia. I have stated that it was the same in its formation, that it came from the same little insect that formed the chalk cliffs at Dover, on the English Channel, and extending down as far as Paris, in France.

That region of the world, Mr. President, has yielded incalculable wealth in the material for the formation of Portland cement. This chalk has been examined geologically and chemically by the United States Geological Survey, by the University of Alabama, and by various private chemists in various places. It has been demonstrated that there is no material in the United States which approaches it within 25 per cent of its value for the cheap production of Portland cement.

Besides, it is cut through by the Warrior, the Tombigbee, and the Alabama rivers leading into the Bay of Mobile, and also by various railways that run through it. North of this great deposit, and within 30 miles of it, are great coal measures in Alabama that furnish the cheap and necessary supply of fuel.

I asked Doctor Smith, who is the State geologist and is a man of sedate character, what he thought about the value of this chalk belt for making Portland cement as compared with the other great industries of this State. He said, "Do you refer to the coal fields?" I said, "I do." He said, "This property is worth more money to its owners and more money to the country than the Warrior and Cahaba coal fields."

This work of the Geological Survey has been assisted and supplemented by private work and private contributions in order that we might get the subject forward. I have had the honor to submit here and have had printed various reports, some with illustrations, to show what was contained in that vast deposit of chalk in the South for making cement.

Now, the opportune moment of which I spoke comes when we are to build a canal somewhere across the Isthmus. Take it at Panama, take it through the cut of Culebra and the Emperador heights, take it in the soft soil which I have just mentioned in debating another question, and we find that we are able to produce a solid foundation for the bottom of the canal and the sides of the canal with the use of this Portland cement, at a saving perhaps of at least 25 per cent in the use of any other material that can be mentioned.

I want the Senate to assist this great Geological Survey in further examining into this matter, and getting other men at work there. Already a company of Englishmen have gone in there and spent a million dollars, and are producing a most excellent cement in large quantities at Demopolis, on the Tombigbee River. It will be but a short time when other men will be going into that country for the purpose of manufacturing Portland cement to supply this kind of work. It can be marketed by water transportation almost every foot of the way. I wanted to call the attention of the Senate to it by making this statement in order that they might see that it was necessary to add to the appropriation for the Geological Survey the \$25,000 which, I believe, is proposed to be added by the amendment now before the Senate.

The PRESIDING OFFICER (Mr. KEAN in the chair). The question is on the amendment offered by the Senator from Colorado [Mr. PATTERSON].

The amendment was agreed to.

Mr. PATTERSON. I desire to offer another amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 30, line 16, after the word "inspectors," it is proposed to insert:

Who may, under regulations to be prescribed by the said Commission, ride upon freight trains, to inform themselves as to the billings of freight and other matters connected with the safety-appliance law.

Mr. ALLISON. I make the point of order against that amendment that it is general legislation.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. PATTERSON. Will the Presiding Officer bear with me for a few moments?

The PRESIDING OFFICER. Certainly; the Chair will withhold his decision.

Mr. PATTERSON. Mr. President, the purpose of the amendment is to make more effective the legislation that is contained in the paragraph to which it refers. The paragraph reads:

To enable the Interstate Commerce Commission to keep informed regarding compliance with the "Act to promote the safety of employees and travelers upon railroads," approved March 2, 1893, including the employment of inspectors to execute and enforce the requirements of the said act, \$75,000.

The amendment does not affect the amount appropriated. It is simply for the purpose of naming and providing some of the duties that the inspectors to be appointed by the Commission may perform in carrying out the object of their appointment. The act to which it relates is the one that requires the railroad companies to adopt certain appliances for the safety of the lives and the limbs of railway employees. That act requires the companies to attach to their cars engaged in interstate commerce brakes and couplers that will minimize the danger to the lives and limbs of those who are engaged in the operation of trains.

After a great many years the Interstate Commerce Commission has succeeded in finally requiring the railway companies to comply with the law.

Many obstacles were thrown in the way of compliance with the law by the companies. Delays were insisted upon; delays were granted, and efforts were made even at the present Congress to confer upon the Commission the right to give still further indulgence to these companies in the matter of equipping their cars in the way the act required. But, at last, as I understand, an order has finally gone out requiring that all the railway companies shall comply with the law within a certain time. While the time is liberal, yet it is none too liberal, perhaps, in view of the fact that so many of the companies have not up to this time effectually observed the law.

The object of the law is a humane one, and the principal purpose is to minimize to the lowest possible extent accidents by derailment by reason of trains not properly equipped with modern appliances. The result has been very satisfactory, indeed, but the men who are particularly interested in this law, the railroad men themselves, find that many companies, professing to observe the law, do not observe the law. Only cars engaged in interstate commerce are required to be thus equipped, because Congress has no jurisdiction over cars not engaged in interstate commerce. The complaint is that many roads use cars in interstate commerce that are not equipped as the law requires, and that it is impossible, with the present opportunities which the inspectors have, to determine in many cases which cars are thus improperly used.

The object of the amendment, Mr. President, is to permit the inspectors appointed by the Interstate Commerce Commission, under rules to be prescribed by the Commission, to ride upon railway trains when they have reason to believe that cars engaged in interstate commerce are not equipped as the law requires. They can get no information from the train hands, for, under the rules of at least some of the roads, it is a dischargeable offense for the train hands to give information when accidents have occurred that might lead to the discovery of the fact that the accidents were occasioned by the failure of the companies to comply with the safety-appliance law.

Cars not properly equipped carry interstate commerce, and when roads are thus willing to disobey the law, the only way, in many instances, in which that fact can be detected is by giving authority to the agents of the Commission to ride upon the trains and to learn from invoices and by other methods whether or not the companies are obeying the law or violating it.

Mr. CULLOM rose.

Mr. PATTERSON. This is not an extraordinary power to be conferred upon a Commission of this kind. Under the railway laws of the State of the Senator from Illinois, who has



just risen, officials under the law have the right to ride upon trains.

Mr. CULLOM. I did not catch the purport of the amendment very clearly from its reading, and I rise to inquire whether by the amendment which the Senator has proposed the agents of the Commission are to be permitted to ride on freight trains in order to better perform their duty. If it is simply permissive, and requires that the railroads shall allow the inspectors to ride on their trains, that is one thing, and I think that ought to be done. If the Commission finds that such an investigation is necessary and that in order to carry it out it is essential that the inspectors ride on freight trains to find out what the facts are, it ought to have the power to do it. If that is the purpose of the amendment, I have no objection to it.

Mr. PATTERSON. That is the purpose of the amendment, I would say to the Senator from Illinois, because the agents are only to ride on cars under rules and regulations prescribed by the Commission, and of course the Commission would adopt such rules and regulations as would prevent its agents from interfering in any way with railway traffic, unless the Commission should be satisfied that the efficient enforcement of the safety-appliance law demanded it.

Mr. CULLOM. I have no objection to that. I have had a good deal to do with this subject. I happen to have had the honor of presenting the bill which was finally enacted providing for the equipment of the rolling stock of the railroads with air brakes, etc., in the interest of the safety of the men employed. If this amendment, as I said, does nothing more than to give the Commission—the agents of the Commission—the right to ride on freight trains in order to perform their duty, I have no objection to it so far as I am concerned.

Mr. PATTERSON. That is precisely the object and is the only scope of the amendment.

Mr. CULLOM. As to the point of order which the chairman of the committee has suggested, I have nothing to say.

Mr. PATTERSON. I sincerely trust that the Senator from Iowa will withdraw the point of order, because it is a provision intended merely to secure a better and more efficient enforcement of the law, which the humanity of the country has demanded and which the humanity of the country approves.

Mr. ALLISON. I ask that the amendment may be again stated.

The SECRETARY. On page 30, line 16, after the word "inspectors," insert:

Who may, under regulations to be prescribed by the said Commission, ride upon freight trains to inform themselves as to the billings of freight and other matters connected with the safety appliance law.

Mr. ALLISON. I make the point of order on the amendment.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. NEWLANDS. I offer the amendment I send to the desk.

The SECRETARY. On page 86, after line 13, it is proposed to insert the following:

The Secretary of the Interior may, in his discretion, authorize payment to the chief disbursing clerk of the United States Geological Survey, from the reclamation fund, of a sum not exceeding \$1,000 per annum in addition to the compensation now received by that officer, in consideration of the additional duties devolved upon him in connection with the reclamation service.

Mr. NEWLANDS. Mr. President, the purpose of this amendment is to give the Secretary of the Interior the power, in his discretion, to pay out of the reclamation fund \$1,000 per annum additional compensation to the disbursing officer of the Geological Survey, who at present receives \$2,500 per annum. The estimate comes from the Treasury Department, recommended by the Secretary of the Interior and the Director of the Geological Survey.

With reference to the merits of the amendment, I have to say that the salary of the disbursing clerk of the Geological Survey as fixed by law is \$2,500 per annum. The work of that office involves the disbursement of about a million and a half dollars per annum, appropriated for the purposes of the Geological Survey. Two years ago an act known as the "reclamation act" was passed, which provided that the receipts from the sales of public lands should be put into a special fund in the Treasury, to be called the "reclamation fund," and to be devoted to the construction of irrigation works in the West. That fund now amounts to about \$25,000,000. It is a revolving fund. Moneys are expended in these irrigation projects in the reclamation of arid lands; the cost of these projects is fastened upon the land and paid back in ten annual installments by the settlers. So the money which goes out of the fund in the construction of irrigation works is returned later on to the fund and applied to the extension of irrigation work.

The work of that fund involves the disbursement of very nearly \$5,000,000 per annum, and instead of appointing another

disbursing officer for the purpose of looking after the disbursement of the reclamation fund, which work has been added to that of the Geological Survey, it was deemed advisable to assign that work to the disbursing officer of the Geological Survey. It led to a large increase in his work and responsibility—the entire organization of the financial part of the reclamation service—and the Secretary of the Interior and the Director of the Geological Survey are of the opinion that they should be permitted to take \$1,000 per annum out of the reclamation fund and apply it to the extra compensation of this officer. It does not come out of the general Treasury, but simply out of this fund.

Mr. LODGE. Will the Senator from Nevada allow me for a moment? I merely wish to make a correction.

Mr. NEWLANDS. Certainly.

Mr. LODGE. I stated that seventy millions, I thought, covered the appropriations for the Geological Survey. I was mistaken. Seventy million dollars covered all surveys; and all the surveys now together reach more than a hundred million, of which roughly something over \$20,000,000 has been spent by the Geological Survey. I was wrong in the statement, and I wanted to correct it.

Mr. MALLORY. I should like to ask the Senator from Nevada whether this is to be paid out of the reclamation fund in the Treasury?

Mr. NEWLANDS. Out of the fund in the Treasury. There is a very large force organized, composed of many engineers, and the work of the reclamation service, I imagine, involves the employment of more men and the expenditure of more money than the entire Geological Survey as previously constituted.

It seems to me this is only a very fair recognition of the extra work imposed upon a very faithful official. I trust the Senator from Iowa will permit the amendment to go in.

Mr. ALLISON. Mr. President, the committee has sought, as far as practicable, not to increase the salaries of officers who are now very well paid. But I shall not resist this proposition made now by the Senator from Nevada, as he seems to think here is one salary wholly inadequate. This officer, of course, is the disbursing officer of the Geological Survey. He is a good officer, I have no doubt, faithful and honest. There has been added to his work a certain amount of additional labor under the reclamation law. He has been supplied with clerks and subordinates to transact chiefly that work, of course under his guidance and his responsibility as disbursing officer. The time will come when we will need to have somebody analyze the accounts of the reclamation service, and we will pay for it more than a thousand dollars, in my judgment, if it is done well.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Nevada.

The amendment was agreed to.

Mr. FORAKER. I offer an amendment to be inserted on page 110, following line 19.

The amendment was read, and agreed to, as follows:

For marking the places where American soldiers fell and were temporarily interred in Cuba and China, \$9,500, said sum to be immediately available.

Mr. DRYDEN. I offer an amendment to come in on page 110.

The SECRETARY. After the amendment just adopted it is proposed to insert:

That the sum of \$30,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the Princeton Battle Monument Association, under the direction of the Secretary of War, to aid in erecting and completing, on the battlefield of Princeton, in the State of New Jersey, a suitable monument: *Provided*, That no part of the sum herein appropriated shall be available until the Princeton Battle Monument Association shall have raised an additional sum of \$30,000, to be expended in the erection of said monument and in the purchase and improvement of the site: *And provided further*, That the design for said monument shall be approved by the Secretary of War.

Mr. ALLISON. This seems to be a patriotic movement, but it ought to come from some committee in the form of a regular bill providing the necessary legislation. I make a point of order upon the amendment.

The PRESIDING OFFICER. The Chair regrets to state that he is obliged to sustain the point of order.

Mr. DRYDEN. If I may be permitted just a word in connection with the amendment, I should like to make a statement.

It is true the amendment does not now come from a committee, but it is also true that the amendment has several times passed the Senate.

Mr. ALLISON. I am aware of that. I think it has been put on the sundry civil bill several times, and always resisted elsewhere.

Mr. DRYDEN. It ought to be like old wine—to get better and better with age. If it was good before, it ought to be good to-day.

The facts, briefly, are these: There has been organized in the State of New Jersey the Princeton Battle Monument Association. The State of New Jersey has appropriated \$15,000 for the construction of a monument upon that historic spot. The citizens of New Jersey who are members of the association propose to add \$15,000 more to that fund. They come to Congress and ask that the Congress shall appropriate an amount equal to that appropriated by the citizens and by the State.

Now, while this spot is located in New Jersey, it belongs to the nation, and the nation ought to have the right and the honor to participate in the monument which is to be put there to commemorate one of the greatest battles of the Revolution. Almost every other historic spot upon which a Revolutionary battle was fought has already been recognized by this Government. New Jersey, with this great battlefield within its limits, almost alone has been neglected; and I say to Senators it would be only fair and they would be only doing themselves justice and honor to vote this trifling sum to help carry out the patriotic enterprise which has been inaugurated by the people of New Jersey.

I hope the Senator from Iowa will withdraw his point of order.

Mr. ALLISON. I regret to say I can not withdraw it.

The PRESIDING OFFICER. The Chair regrets to say he has to sustain the point of order.

Mr. HEYBURN. I desire to offer an amendment.

The SECRETARY. On page 85, after line 20, it is proposed to insert:

That the Secretary of the Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and survey and subdivide the same into town lots, with appropriate reservations for public purposes.

That the lots so surveyed shall be sold at public auction to the highest bidders for cash, from time to time, as deemed advisable by the Secretary of the Interior.

That the proceeds of such sales shall be expended by the Secretary of the Interior for the construction of water and sewer systems and other municipal improvements and for the payment for rights to the use of water from irrigation projects for such towns, to the extent that such proceeds shall be sufficient to meet the cost thereof.

That the moneys expended for such municipal improvements shall be repaid by the town authorities, in the manner provided by the said reclamation act, in annual installments, not exceeding twenty, as fixed by the Secretary of the Interior, and the moneys so repaid shall be covered into the reclamation fund.

That the public reservations, as surveyed by the Secretary of the Interior, shall be improved and maintained by the town authorities at the expense of the town, and upon the repayment of the moneys expended for municipal improvements as herein provided the said reservations shall be conveyed to the town with the proviso that they shall be used forever for the purposes for which they were reserved.

That the Secretary of the Interior may sell and dispose of rights to the use of water available under the provisions of the said reclamation act for domestic, fire, and other necessary purposes to any city or town established as hereinbefore provided, and also any other cities or towns. The cost of such water rights shall be repaid into the reclamation fund in the manner provided by the reclamation act, in annual installments, not exceeding twenty, as fixed by the Secretary of the Interior.

SEC. 7. That whenever there is a development of power for use in connection with irrigation projects under the said reclamation act, the Secretary of the Interior is hereby authorized to sell or dispose of any surplus power in such manner and upon such terms as he may deem proper, and any moneys received therefor shall be returned to the reclamation fund; and such power-development system shall be regarded for all purposes of the reclamation act as a part of the irrigation system: *Provided*, That no agreement for the use of such surplus power shall be made for a period exceeding ten years: *And provided further*, That if the use of such waters for the development of power shall at any time become incompatible with any feasible extension of the use of such waters for irrigation purposes the use thereof for power purposes shall be discontinued.

Mr. ALLISON. This is general legislation. I can not consent that it shall go on the pending bill.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. HEYBURN. Will the Senator from Iowa withdraw the point of order? It will take but a moment to explain the amendment.

Mr. ALLISON. If the Senator will allow me, I should like to be kind to him, but it is impossible to put on this bill all the legislation needed with respect to the public lands and the reclamation service. It may be a very important matter, and it should be considered by the committee having the subject in charge.

Mr. HEYBURN. A bill for this purpose has been favorably reported by the committee of the Senate, and the amendment carries no appropriation.

Mr. ALLISON. I am glad to know that such a bill has been reported by the committee, and I will at some suitable time yield to the Senator to call it up.

The PRESIDING OFFICER. Are there further amendments? If not, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

#### ORDER FOR RECESS.

Mr. ALLISON. I move that the Senate at 6 o'clock take a recess until 8 o'clock this evening.

The motion was agreed to.

#### PURE-FOOD BILL.

Mr. ALLISON. Now, I shall be very glad to yield, if I may, to the Senator from Idaho [Mr. HEYBURN] to pass the bill which he tried to have introduced as an amendment to the sundry civil bill.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which will be stated by title.

The SECRETARY. A bill (H. R. 6295) for preventing the adulteration or misbranding of foods or drugs, and for regulating traffic therein, and for other purposes.

Mr. CULLOM. I ask unanimous consent to call up the bill (H. R. 815) to correct the military record of James Houselman. It is a private bill, and it is the only one I have called up or tried to call up at this session.

The PRESIDENT pro tempore. The Senator from Illinois asks that the unfinished business be temporarily laid aside, in order that the Senate may consider the bill indicated by him.

Mr. HEYBURN. Does it require unanimous consent?

The PRESIDENT pro tempore. It does.

Mr. HEYBURN. I object to laying aside the unfinished business.

The PRESIDENT pro tempore. Objection is made.

Mr. CULLOM. Very well.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 6295) for preventing the adulteration or misbranding of foods or drugs, and for regulating traffic therein, and for other purposes.

Mr. SPOONER. I move to lay the bill on the table.

Mr. HEYBURN. On that I ask for the yeas and nays.

Mr. ALLISON. I hope the Senator from Wisconsin will allow the bill to be debated. It is a very important bill.

Mr. SPOONER. I yield to the Senator from Iowa to debate it.

Mr. ALLISON. I have no disposition myself to debate it, but I should like very much to hear the Senator from Idaho or some other Senator debate it.

Mr. SPOONER. If the Senator from Idaho wants to debate it further, I will withdraw the motion.

Mr. HEYBURN. I do desire to have the bill debated further, and to participate in that debate.

The PRESIDENT pro tempore. The Chair calls the attention of the Senator from Wisconsin to the fact that the rule of the Senate is entirely different from the rule of the House with respect to laying on the table. The rule provides that a proposed amendment may be laid on the table, but there is no rule which provides that a bill may be laid on the table.

Several motions are stated in the rule—a motion to proceed to the consideration of an appropriation bill, a motion to proceed to the consideration of any other bill on the Calendar, a motion to pass over the pending subject, and a motion to place such subject at the foot of the Calendar.

Those are the motions recognized in the rules of the Senate.

Mr. SPOONER. A motion to indefinitely postpone is in order?

The PRESIDENT pro tempore. That is always in order.

Mr. SPOONER. I make that motion.

Mr. HEYBURN. I do not understand what is the motion.

Mr. SPOONER. A motion to indefinitely postpone the bill.

Mr. HEYBURN. Is that debatable?

Mr. SPOONER. Yes.

Mr. CLARK of Wyoming. Will the Senator from Idaho yield to me for a moment?

Mr. HEYBURN. I yield to the Senator from Wyoming.

#### GRAZING ON THE PUBLIC LANDS.

Mr. CLARK of Wyoming. I submit an order for which I ask present consideration. It is of immediate necessity.

The order was read, and agreed to, as follows:

*Ordered*, That there be printed 3,500 extra copies of certain extracts from the appendix to the report of the Commission on the Public Lands, relating to grazing on the public lands, of which number 2,500 copies shall be for the use of the Commissioner of the General Land Office and 1,000 for the use of the Senate.

#### AMENDMENT OF INTERSTATE-COMMERCE LAW.

Mr. DOLLIVER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. I do.



Mr. DOLLIVER. I desire to call up the joint resolution I introduced yesterday in relation to the appointment of a joint commission in respect to amendments to the interstate-commerce laws.

The PRESIDENT pro tempore. The Chair lays before the Senate the joint resolution, which will be read.

The joint resolution (S. R. 113) providing for a joint commission to investigate the question of additional legislation to regulate interstate commerce was read the first time by its title and the second time at length, as follows:

*Resolved, etc.,* That a joint commission, consisting of seven Senators members of the Fifty-ninth Congress, to be appointed by the present President pro tempore of the Senate, and seven Members-elect of the House of Representatives of the Fifty-ninth Congress, to be appointed by the Speaker of the House of Representatives of the Fifty-eighth Congress, shall, at such times and places as it may determine, investigate the question of additional legislation to regulate interstate commerce and to authorize the Interstate Commerce Commission to fix rates of freight and fares, and to inquire into violations or evasions of the act of Congress approved February 19, 1903, including the methods by which such evasions and violations are accomplished, including refrigerator and other private car line systems, industrial railway tracks, switching charges, and all other devices.

Said commission is authorized to employ experts, who shall render such assistance as the commission may require, and shall receive such compensation as the commission shall determine to be just and reasonable. The Department of Justice, the Department of Commerce and Labor, and the Interstate Commerce Commission shall detail from time to time such officers and employees as may be requested by said commission in the furtherance of their investigations under this resolution.

Said commission or any subcommittee thereof shall have power to employ a stenographer to report its hearings, to have such hearings printed, and as rapidly as printed a copy shall be sent to each member of the Senate and House of Representatives. It shall also have powers to send for persons and papers, to administer oaths, and such process shall be issued and such oaths administered by the chairman of the commission, or subcommittee thereof.

Said commission shall report, by bill or otherwise, to their respective Houses of the Fifty-ninth Congress on or before the 10th day of the first session of said Congress.

All necessary expenses of said commission shall be paid upon vouchers approved by the chairman of the commission, and such sum as may be necessary for such purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. KEAN. I move to refer the joint resolution to the Committee on Interstate Commerce.

Mr. DOLLIVER. Mr. President—

Mr. KEAN. I withhold the motion.

Mr. DOLLIVER. I desire to say a few words.

Mr. HEYBURN. This will not involve any debate?

Mr. DOLLIVER. I think not.

Mr. HEYBURN. If it does—

Mr. FORAKER. It will involve a great deal of debate if it is insisted upon.

Mr. HEYBURN. If it leads to debate, I will ask the Senator from Iowa to postpone it until I have made a statement in connection with the unfinished business. I will say to the Senator from Illinois [Mr. CULLOM] that I have no desire to antagonize any matter, but I wish to have measures considered subject to the unfinished business.

Mr. CULLOM. I supposed the Senator had the floor for the purpose of holding it on his bill, and I did not desire to interfere with him, but wanted to pass a little private bill which would not lead to any debate or take any time.

Mr. HEYBURN. I yield now to the Senator from Illinois, if it will lead to no debate.

Mr. DOLLIVER. I do not desire to interfere with the Senator from Idaho, and I will very gladly withhold what I have to say until he has finished.

JAMES HOUSELMAN.

Mr. CULLOM. I ask unanimous consent for the present consideration of the bill (H. R. 815) to correct the military record of James Houseelman.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That James Houseelman, late second lieutenant of Company H, Sixty-third Regiment Illinois Volunteer Infantry, shall hereafter be held and considered to have been honorably discharged the service on the 7th day of December, 1862, and a certificate of such discharge shall be issued to him: *Provided*, That no pay, bounty, or other allowances shall accrue or become due or payable by virtue of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

REPORTS OF BUREAU OF IMMIGRATION.

Mr. PLATT of New York. Mr. President—

Mr. HEYBURN. I yield to the Senator from New York.

Mr. PLATT of New York. I am directed by the Committee on Printing, to whom was referred the joint resolution (H. J. Res. 225) providing for the printing annually of the reports of the Bureau of Immigration, to report it favorably without amendment, and I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WATER RIGHTS IN SPOKANE RIVER.

Mr. FOSTER of Washington. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Washington?

Mr. HEYBURN. I yield to the Senator from Washington, provided the measure he calls up does not lead to debate.

Mr. FOSTER of Washington. I desire to call up the bill (H. R. 15609) providing for the acquirement of water rights in the Spokane River along the southern boundary of the Spokane Indian Reservation, in the State of Washington, for the acquirement of lands on said reservation for sites for power purposes and the beneficial use of said water, and for other purposes.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. LODGE. I should like to examine the act. I object to its consideration now.

Mr. FOSTER of Washington. It is a House bill just passed.

Mr. LODGE. I dare say, but I wish to look at it.

Mr. FOSTER of Washington. It is very important that the bill should pass.

The PRESIDENT pro tempore. Objection is made to the present consideration of the bill.

Mr. FOSTER of Washington subsequently said: I call up House bill 15609, which was under consideration a few moments ago. The bill has been read.

The PRESIDENT pro tempore. The bill was read. Is there objection to its consideration?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PURE-FOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 6295) for preventing the adulteration or misbranding of foods or drugs, and for regulating traffic therein, and for other purposes.

Mr. HEYBURN. Mr. President, I should like now to proceed for a while, and if Senators have matters that require no discussion and desire after a little bit to interrupt me, I shall be very pleased to yield to them.

Mr. President, I wish to premise what I shall say by calling the attention of the Senate to what the United States Supreme Court has said in regard to the question involved in this bill. In the case of *Plumley v. The Commonwealth of Massachusetts*, 115 United States, at page 13, the Supreme Court says:

It is within the power of the State to exclude from its markets any compound manufactured in another State which has been artificially colored or adulterated so as to cause it to look like an article of food in general use, and the sale of which may, by reason of such coloration or adulteration, cheat the general public into purchasing that which they may not intend to buy. The Constitution of the United States does not secure to anyone the privilege of defrauding the public. The deception against which the statute of Massachusetts is aimed is an offense against society, and the States are competent to protect their people against crime or wrongs of more serious character. And this protection may be given without violating any law secured by the National Constitution and without interference of the authority of the General Government. A State enactment forbidding a sale of deceitful imitations of articles of food in general use among the people does not abridge any privilege to secure citizens of the United States, nor in any just sense interfere with the freedom of commerce among the several States.

Now, that is the rule as stated by the Supreme Court with regard to the right of the State. That the United States may, and should, in dealing with its Territories and districts under its direct control, do the same thing can not be open to question. The bill under consideration provides only for the regulation of interstate commerce. It does not profess to invade the province of a State to enact laws and enforce them upon this subject. In addition to the territorial jurisdiction immediately under the direction and control of the General Government the Government shall do that which, if the Territory or district were a State, would be done by the State.

Mr. LATIMER rose.

Mr. HEYBURN. Does the Senator from South Carolina desire to interrupt me?

Mr. LATIMER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from South Carolina?

Mr. HEYBURN. I yield for a limited purpose.

#### INSECT PESTS.

Mr. LATIMER. I report, from the Committee on Agriculture and Forestry, with amendment, the bill (H. R. 18754) to prohibit interstate transportation of insect pests and the use of the United States mails for that purpose. I desire unanimous consent for the present consideration of the bill.

Mr. KEAN. Is that the bill from the consideration of which the Committee on Interstate Commerce was discharged?

Mr. LATIMER. This is the bill.

Mr. KEAN. I should like, in connection with it, to put in the RECORD reasons for the passage of the bill presented to the Committee on Interstate Commerce, and the reason why that committee asked to be discharged from its further consideration.

The PRESIDENT pro tempore. Does the Senator from New Jersey desire to have it read?

Mr. KEAN. I desire to have it read after the bill is read.

Mr. CULBERSON. If the Senator is going to insist on the passage of the bill at this time, I must insist on the bill itself being read.

Mr. LATIMER. I ask that the bill be read.

The PRESIDENT pro tempore. The bill will be read.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. LATIMER. There are some amendments reported by the committee.

Mr. KEAN. I should like to have read the paper I send to the desk, showing the reasons for the passage of this act.

Mr. CULBERSON. Before unanimous consent is given for its consideration I should like to have the paper read to which the Senator from New Jersey has referred.

The PRESIDENT pro tempore. The Chair hears no objection, and the paper will be read.

The Secretary read as follows:

#### RESTRICTION OF COTTON PRODUCT.

DALLAS, TEX., January 3, 1905.

PRICE, McCORMICK & Co.,

Brokers and Commission Merchants, New York City, N. Y.

GENTLEMEN: Referring to above, I inclose herewith a copy of the Dallas News (marked article) upon this subject. Comments, I think, are unnecessary.

I am a stranger to you people, but have some business friends here who have selected and requested me to write to you a very pointed letter.

We can assure you we are prepared to put the price of cotton to the high-water mark (crop period of 1905) provided we can get men of means to take care of the cotton offered by the "bears" at the critical time or period of action, last of next July.

We can, by your assistance financially, put the boll weevil into every cotton State inside of twenty or thirty days in the South, and will say we can get the "pests" by the "bushel."

All we ask is assurance from you that you stand ready to carry out the scheme, and, if necessary, one of us will come to New York (the writer) to perfect "everything."

The writer is now employed by a very wealthy company, who have interests in New York City, but our plan at present is unknown to them or men of means.

The plan is just as legitimate as those of the various bankers, growers, and merchants who are trying to raise the price, which is, or will be, in our favor also.

Soon as I hear from you favorably then I will give you my real name, with reference, in writing if you wish, from men and companies worth millions of dollars.

Assuring you that I am no "crank," but for obvious reasons refuse to give my real name at this writing, I register this letter, and it may be fifteen or twenty days before you hear from me should you make favorable reply, as my company think of sending me into New Mexico next week. So do not be alarmed if I do not write at once.

I have arranged with the postmaster here to hold my mail subject to personal call or written orders to forward.

Very respectfully,

CHARLES WILLIAM CUNNINGHAM,  
General Delivery, Dallas, Tex.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. CULBERSON. Doubtless the Senator from South Carolina is unduly frightened, but this bill has never been introduced in the Senate and only passed the House a few days ago. No opportunity has been afforded anyone here to even read it. I object to its consideration at this time and until I can have an opportunity of examining it.

The PRESIDENT pro tempore. Objection is made, and the bill will be placed on the Calendar.

Mr. BAILEY. In view of the fact that the letter which has just been read is dated at Dallas, Tex., I desire to call the attention of the Senate to the fact that obviously the writer of it does

not live there, and plainly he is not identified with the cotton industry, except as a gambler.

Mr. KEAN. That is what I wanted to call to the attention of the Senate.

Mr. HEYBURN. If the bill is going to involve debate I shall ask that it go over.

The PRESIDENT pro tempore. The bill has gone to the Calendar.

#### BRIDGES IN MISSISSIPPI.

Mr. MONEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Mississippi?

Mr. MONEY. I ask the Senator to yield to me for a moment.

Mr. HEYBURN. I will be pleased to yield to the Senator from Mississippi.

Mr. MONEY. I ask unanimous consent to call up three House bills, all bridge bills and very small, in waters entirely within the limits of the State of Mississippi, all complying with the requisition of the law, and approved by the Secretary of War.

I ask that the bill (H. R. 18596) to authorize the county of Quitman to construct a bridge across Coldwater River, Mississippi, be considered.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. MONEY. I ask that the bill (H. R. 18597) to authorize the county of Quitman to construct a bridge across the Tallahatchie River, Mississippi, be considered.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. MONEY. I ask the Senate to consider the bill (H. R. 18598) to authorize the county of Quitman to construct a bridge across Coldwater River, Mississippi.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### S. J. CALL.

Mr. SPOONER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Wisconsin?

Mr. HEYBURN. I yield to the Senator from Wisconsin.

Mr. SPOONER. I ask unanimous consent for the present consideration of the bill (H. R. 18688) authorizing the President to appoint S. J. Call surgeon in the Revenue-Cutter Service. The bill has been read. I stopped the passage of the bill last night in order to offer an amendment. I think that would kill it. I therefore call it up and ask that it be acted upon.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### FRANK D. KOONCE.

Mr. HEYBURN. I yield to the Senator from North Carolina.

Mr. OVERMAN. I ask unanimous consent to call up the bill (H. R. 4407) authorizing the Secretary of the Treasury to defray the expenses of contestant in the contest entitled "Koonce against Grady."

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### CLAUDE B. ALVERSON.

Mr. HANSBROUGH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from North Dakota?

Mr. HEYBURN. I do.

Mr. HANSBROUGH. I report back from the Committee on Public Lands without amendment the bill (H. R. 3628) for the relief of Claude B. Alverson, and I ask for its present consideration.

The PRESIDENT pro tempore. Without objection, the report will be received. The Senator from North Dakota asks for the present consideration of the bill, which will be read.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.



## LIGHT-HOUSE AT DIAMOND SHOAL.

Mr. SIMMONS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. HEYBURN. I yield to the Senator from North Carolina.

Mr. SIMMONS. I ask unanimous consent to call up the bill (H. R. 17941) to amend the act entitled "An act to provide for the construction of a light-house and fog signal at Diamond Shoal, on the coast of North Carolina, at Cape Hatteras," approved April 28, 1904.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## PENSACOLA, ALABAMA AND WESTERN RAILROAD BRIDGES.

Mr. MALLORY. I ask unanimous consent for the present consideration of the bill (S. 6841) to authorize the construction of a bridge over the Alabama River between the counties of Clark and Monroe, State of Alabama.

Mr. HEYBURN. I yield to the Senator from Florida for that purpose, if the bill will not involve debate.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. MALLORY. I have an amendment to that bill which embraces the substance of two or three bills for the construction of certain railroad bridges over rivers in Alabama and Mississippi. The amendment which I offer is incorporated in one bill, it being identically the same as the bills from which I have taken it.

The PRESIDENT pro tempore. Has the amendment which the Senator offers received the approval of the Commerce Committee?

Mr. MALLORY. It has the approval of the Senator from Arkansas [Mr. BERRY]. The amendment, as I have stated, is identically in the same form as the bills. I ask that the amendment be read.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Florida will be read.

The SECRETARY. It is proposed to strike out all after the enacting clause of the bill and to insert:

That the Pensacola, Alabama and Western Railroad Company, a corporation existing under the laws of the State of Florida, be, and is hereby, authorized to construct, operate, and maintain a bridge over the Tombigbee River, in the county of Lowndes, in the State of Mississippi, at a point to be approved by the Secretary of War; a bridge over the Alabama River between the counties of Clark and Monroe, State of Alabama, at a point to be approved by the Secretary of War, and a bridge over the Black Warrior River between the counties of Green and Marengo, in the State of Alabama, at a point to be approved by the Secretary of War. Said bridges shall be constructed to provide for the passage of railway trains and, at the option of the persons by whom they may be built, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals, and for foot passengers, for such reasonable rates of toll as may be approved from time to time by the Secretary of War; and in case of any litigation concerning any alleged obstruction to the free navigation of said rivers on account of said bridges the case may be tried before the circuit court of the United States in whose jurisdiction any portion of said obstruction or bridge is located: *Provided*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of law now existing in reference to the protection of the navigation of rivers, or to exempt said bridges from the operation of same.

SEC. 2. That any bridge constructed under this act and according to its limitations shall be a lawful structure, and shall be recognized and known as a post route, upon which also no higher charge shall be made for the transmission over the same for the mails, the troops, and the munitions of war of the United States than the rate per mile paid for their transportation over railroads or public highways leading to said bridges; and the United States shall have the right of way for telegraph, postal-telegraph, and telephone purposes across said bridges; and equal privileges in the use of said bridges shall be granted to all telegraph and telephone companies.

SEC. 3. That if said bridges shall be constructed as drawbridges they shall be constructed with a draw over the main channel of the river at an accessible and the best navigable point, and said draw shall be opened promptly, upon reasonable signal, for the passage of boats, and, upon whatever kind of bridge is constructed, the said company or corporation shall maintain, at its own expense, from sunset to sunrise, such lights or other signals as the Light-House Board shall prescribe.

SEC. 4. That all railroad companies desiring the use of said bridges shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same and over the approaches thereto upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridges and the several railroad companies or any one of them desiring such use shall fail to agree upon the sum to be paid and upon the rules or conditions to which each shall conform in using said bridges, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties.

SEC. 5. That any bridge authorized to be constructed under this act shall be built and located under and subject to such regulations for the security of navigation of said rivers as the Secretary of War shall prescribe, and to secure that object the said company or corporation shall submit to the Secretary of War, for his examination and approval, designs and drawings of the bridges and a map of the location, giving, for the space of 1 mile above and 1 mile below the proposed location, the topography of the banks of said rivers, the shore lines at high and low water, the direction and strength of the current at all

stages, and the soundings, accurately showing the bed of said stream, the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plans and locations of the bridges are approved by the Secretary of War the bridges shall not be built; and should any change be made in the plans of said bridges during the progress of construction or after completion such change shall be subject to the approval of the Secretary of War; and said bridges shall be changed at the cost of the owners thereof, from time to time, as the Secretary of War may direct, so as to preserve the free and convenient navigation of said rivers.

SEC. 6. That the right to alter, amend, and repeal this act is hereby expressly reserved.

SEC. 7. That this act shall be null and void unless the construction of said bridges hereby authorized shall be commenced within three years and be completed within five years from the date of the approval of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Pensacola, Alabama and Western Railroad Company, a corporation existing under the laws of the State of Florida, to construct a bridge over the Tombigbee River, in the county of Lowndes, in the State of Mississippi, and to construct a bridge over the Alabama River, between the counties of Clark and Monroe, in the State of Alabama, and to construct a bridge over the Black Warrior River, between the counties of Green and Marengo, in the State of Alabama."

## PURE-FOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 6295) for preventing the adulteration or misbranding of foods or drugs, and for regulating traffic therein, and for other purposes.

Mr. ALLISON. I ask the Senator from Idaho [Mr. HEYBURN] to yield to me for a moment.

Mr. PLATT of Connecticut. I make the point of order, Mr. President—

Mr. ALLISON. I hope the Senator from Connecticut will not make it on me. I only want to have some necessary business transacted.

Mr. PLATT of Connecticut. I make the point of order that a Senator can not take the floor upon one bill and proceed to farm out the floor to Senators whom he chooses to have legislation passed; that the right belongs to the Chair of recognizing Senators to call up business, and that one Senator can not obtain the floor upon a bill and then farm out the time to Senators to call up bills.

I make this point of order because I made it a year or so ago upon the Senator from Texas [Mr. BAILEY], who felt hurt at the time; but the point of order was sustained and I think it should be sustained. I do not think that is a proper way of transacting the business of the Senate.

The PRESIDENT pro tempore. It is not unusual in the Senate when a Senator has the floor for him to yield for one or two bills; but it is unusual, and the Chair does not think that it is within order, for a Senator to retain the floor for an hour or so, parceling out the business of the Senate. The Chair sustains the ruling which he formerly made, that it is not in order.

Mr. PLATT of Connecticut. Of course, when a Senator has the floor and yields it for an occasional bill the point of order would never be made; but when a Senator obtains the floor and allows bills to be called up, not pursuing his own matter at all, he, instead of the Presiding Officer, takes possession of the Senate and its business.

The PRESIDENT pro tempore. That method has never been recognized in the United States Senate.

Mr. HEYBURN. Mr. President, in yielding to the various Senators I was extending only a courtesy. If it was not within the rules of the Senate, then my trespass upon the rules was merely the result of a desire to be overcourteous.

Mr. President, I understand the rule to be that I can not yield without unanimous consent. I have but a short statement to make to the Senate. I intend, so far as my connection with this bill goes, to bring it to a conclusion one way or the other. It is a bill primarily for the purpose of compelling people to be honest to each other in their dealings. It permits a man to purchase and use misbranded goods if he wants to. It prevents a man from imposing upon the public by offering for sale deleterious foods, drugs, and medicines under the pretense that he is furnishing them with a standard article of recognized value.

So far as the drug provision of this bill is concerned it is of the most far-reaching effect. A physician, knowing the potent power of a given drug for the cure of disease or for relief from pain, prescribes it. He writes the name correctly and di-

rects the patient to go to the drug store and procure it, with the assurance, based upon his knowledge of the science of medicine, that he has done what is right and best for his patient. The patient goes to the drug store, but instead of procuring the article prescribed by the physician he is given an entirely different article. The patient dies, or the relief that was intended to be given by the medicine is not obtained. The suffering may be that of an adult or it may be that of a helpless child. It may result in partial danger or the destruction of life. What Senator here will cast a vote against a measure designed to protect the people against that imposition? What Senator here will cast a vote against a measure which provides that articles of merchandise offered for sale shall be properly marked and branded? Who is injured by compelling the dealer in the commodities of life to tell the truth about them, to mark them for what they are?

With these preliminary remarks, as it seems that no other Senator here—

Mr. LODGE rose.

Mr. HEYBURN. If any Senator desires to discuss the bill I shall take great pleasure in hearing him, because I do not suppose that this bill is the embodiment of ultimate wisdom; and if it can be improved or amended let us do it, but let us proceed to the final determination of it.

Mr. LODGE. I desire to offer an amendment to the pending measure, which I presented some time ago. I will say that this amendment is simply a provision taken from the House bill which has been stricken out by the Senate committee. Why it has been stricken out I do not know, for it is very necessary, unless great injustice is to be done.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 19, line 17, it is proposed to insert:

*Provided further, That when in the preparation of food products for shipment they are preserved by an external application applied in such manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise, the provisions of this act shall be construed as applying only when said products are ready for consumption.*

Mr. LODGE. I understand that the amendment is now pending.

The PRESIDENT pro tempore. It is now pending.

Mr. HEYBURN. I understand the question is on the amendment.

The PRESIDENT pro tempore. The amendment is pending. It has been read.

#### APPOINTMENT OF SENATORS, ETC., UPON COMMISSIONS.

Mr. McCOMAS. Mr. President, I have been waiting an opportunity in the intervals between the urgent business of the Senate to put certain facts on record in respect of a matter discussed three or four times in the Senate—the appointment upon public commissions by the President of members of the Senate, of the House, and of the judiciary. As it seems there is a lull here, and the pure-food bill will perhaps not be very much delayed by what I shall say—

Mr. HEYBURN. I object, Mr. President, to breaking in on the pure-food bill with anything.

Mr. McCOMAS. I think my remarks will have as much relevancy to the pure-food bill as some other discussions on the same bill.

The appointment by the President of Senators, Representatives, and Federal judges upon commissions to inquire into and settle or arbitrate international disputes in cases of special importance or emergency has been so strongly opposed by several eminent Senators in debate here that I concluded to make and place in the RECORD the full list of such commissions in their order. The category of the names of those who have served on the commissions and the public events to which the commissions have related, in my humble opinion, prove the proposition with which I will conclude.

It has been said that the practice is unconstitutional; that Senators and other officials thus hold two offices—two incompatible offices—at the same time; that the practice is hurtful to the country, injurious to the courts and the House; that it lessens the constitutional power of the Senate and has not benefited the country.

In Hartwell's case (6 Wall., 385) it was said that—

The term [office] embraces the idea of tenure, duration, emolument, and duties. The duties must be continual and permanent, not occasional or temporary.

When President McKinley sent in the names of two Senators and one Representative for confirmation as commissioners to visit Hawaii, the Senate declined to take action thereon. An eminent Senator expressed the view of the Senate:

If these gentlemen are to be officers, how can the President appoint them under the Constitution, the office being created during their

term, or how can they hold office and still keep their seats in Congress? If they are not officers, under what constitutional provision does the President ask the advice and consent of the Senate to their appointment?

That membership upon such temporary commissions is not the holding of an office, or at least is not the holding of an incompatible office, is affirmed by the practice and by the contemporary construction of all the departments of the Government during a century. The recital of the instances I give is the best evidence upon this point. The most liberal view as to incompatible offices was shown by the acts of the great Chief Justice and our earlier Presidents.

Chief Justice John Marshall accepted that office February 4, 1801, and continued to act as Secretary of State under President John Adams, who had appointed him to the highest judicial office, until March 4, 1801. President Jefferson on that day formally appointed Chief Justice Marshall Secretary of State "until a successor shall be appointed"—not an appointment for a definite term, but for a temporary exigency.

In like manner Gen. Samuel Smith, a member of Congress from Maryland, was actually in charge of the Navy Department under President Jefferson from March 31, 1801, until June 13, 1801.

The offices thus held were held only by an indefinite tenure temporarily, but I am not now concerned with the holding of incompatible offices. I have confined my research to the special commissions constituted in whole or part of Senators and Representatives and Federal judges.

It is a suggestive fact that the Presidents and Congress from the earliest days of the Republic continued to practice this method of meeting great emergencies. The most striking instances occur at the very beginning of our Government and were sanctioned by the men who made the Constitution. Those who had the most to do with that instrument made the least objection to the practice of sending such officials upon such special missions.

If the practice be unconstitutional, President Washington and John Jay, who had so much to do with the making and adoption of the Constitution, were the first violators of it.

President Washington on April 19, 1794, appointed Chief Justice Jay to be envoy extraordinary to Great Britain, and empowered him to negotiate the treaty. The result was the treaty of amity, commerce, and navigation of November 19, 1794, so famous in our history. This treaty, which accomplished the evacuation of the British posts in our country, really avoided a war with Great Britain. Mr. Jay, who negotiated it, was Chief Justice of the Supreme Court from September 26, 1789, until June 29, 1795. He was Chief Justice during the whole term of his special mission to Great Britain.

Oliver Ellsworth, of Connecticut, early took the view of the proposition I am now maintaining, the view which has been so strongly and so well stated here by the very able Senator from Connecticut [Mr. PLATT], who now honors me with his attention. Ellsworth was appointed by President John Adams a joint envoy extraordinary to France, with William Vans Murray, of Maryland, and William R. Davie, of North Carolina, on February 26, 1790. The convention of peace, commerce, and navigation of September 30, 1800, was the result of this commission's work. That treaty avoided actual hostilities with France, and it also secured a recognition by France of the rights of neutral vessels and prospective indemnity for depredations by privateers and men-of-war. The echoes of this treaty still linger in the spoliation claims in our annual appropriation bill to-day.

Mr. Ellsworth did not resign the office of Chief Justice until after the making of the treaty.

In 1800 Senator Uriah Tracy during the summer visited and examined the state of the garrisons in the Northwest Territory, and it appears that Tracy was paid \$1,232 for compensation and \$1,985.05 for expenses, in addition to his pay as a Senator, without objection. Mr. Wolcott, Secretary of the Treasury, maintained that Senator Tracy's employment was an executive agency and not an office of the United States, contending that such powers pertained to the Executive and had been generally exercised. Compared with our view to-day, such construction was very liberal.

David Meriwether, of Georgia, was a Member of the House of Representatives from 1802 to 1807. Under President Jefferson Mr. Meriwether was appointed, on April 28, 1804, a commissioner to conclude a treaty with the Creek Indians until the end of the next session of the Senate.

The Indians were then regarded as dependent and yet semi-independent nations.

Samuel Nelson, of New York, was associate justice of the Supreme Court from 1845 to 1872, and he was appointed by President Grant on February 10, 1871, as one of the members



of the Joint High Commission to negotiate the "Treaty of Washington." This treaty was concluded May 8, 1871, and signed by Justice Nelson. It is the historic treaty for the settlement by arbitration of the Alabama claims, for the determination of fisheries rights and claims, canal navigation, transit of merchandise in bond, and the submission of the boundary question of Article I of the treaty of 1846 to arbitration by the Emperor of Germany.

Frank Morey, of Louisiana, while a Member of the House of Representatives, was appointed by President Grant honorary commissioner to the Vienna Exposition of 1873, under the act of February 14, 1873.

It is not a very marked case, and yet it comes within the rule of objection stated by the very strict construction I have heard maintained on this floor.

Under the act of August 5, 1892, Senator WILLIAM B. ALLISON of Iowa, the leader of the Senate, its guide, philosopher, mentor, and friend, who now sits before me, Senator John P. Jones, of Nevada, and Representative JAMES B. MCCREARY, of Kentucky, were appointed by President Harrison on November 3, 1892, Commissioners to the International Monetary Conference, held at Brussels November 22, 1892.

President Harrison on June 6, 1892, appointed John M. Harlan, then and ever since an associate justice of the Supreme Court, and JOHN T. MORGAN, then and ever since a Senator of the United States from Alabama, as arbitrators on behalf of the United States under the treaty of February 29, 1892, between the United States and Great Britain, to determine the jurisdictional rights of the United States in waters of the Bering Sea for the preservation of the fur-seal herds.

President Cleveland on January 4, 1896, appointed David J. Brewer, then and ever since an associate justice of the Supreme Court, and Richard H. Alvey, then and continually until January 1, 1905, chief justice of the court of appeals of the District of Columbia, to be members of the Venezuelan Boundary Commission. Justice Brewer was president of the Commission, a tribunal appointed by President Cleveland to make an independent examination of the merits of the case respecting a boundary line between Venezuela and Great Britain. Neither Government was formally represented before the Commission, but the question before it was afterwards, and partly because of the investigation by this Commission, submitted to arbitration between Great Britain and Venezuela practically at the instance of our Government.

President Cleveland appointed William L. Putnam, then, and ever since, a circuit judge of the United States, on July 11, 1896, a commissioner, under the convention of February 8, 1896, between the United States and Great Britain, to determine through the joint commission the British claims for damages in certain cases additional, and also in the cases mentioned in the findings of fact by the fur-seal tribunal at Paris in 1893. Judge Putnam was our commissioner, and Judge George Edward King, of the supreme court of Canada, was the commissioner on the part of Great Britain, and on December 17, 1897, this commission awarded damages in favor of British claimants to the amount of \$473,151.26.

President McKinley, on April 14, 1897, appointed Senator Edward O. Wolcott, of Colorado, the eloquent and brilliant Senator the tidings of whose death we have received to-day, and whose death has caused profound sadness in this Senate and among all the people of the country, special envoy to France, Germany, Great Britain, and other countries to seek an international agreement to fix the relative value between gold and silver under the act of March 30, 1897.

President McKinley, on July 13, 1898, appointed Senator SHELBY M. CULLOM, of Illinois, the present occupant of the chair, and Senator JOHN T. MORGAN, of Alabama, and Representative ROBERT R. HITT, of Illinois, to serve until the end of the next session of the Senate, as commissioners to recommend legislation concerning the Hawaiian Islands under the joint resolution of July 7, 1898. It is true the Senate declined to confirm them when asked and did not appear to regard this as other than a legislative committee, not requiring executive nomination and confirmation by the Senate.

President McKinley, on July 16, 1898, appointed Senator CHARLES W. FAIRBANKS, of Indiana; Representatives Nelson Dingley of Maine, and Senator George Gray, of Delaware, as a joint high commission to settle differences between Great Britain and the United States in respect of Canada, and this commission was appointed under the deficiency act of July 7, 1898. Senator Gray resigned later to accept a place upon another commission. Mr. Dingley served until his death. Senator Charles J. Faulkner, of West Virginia, and Representatives SERENO E. PAYNE, of New York, were appointed to fill these vacancies. Senator FAIR-

BANKS and former Senator Faulkner and Mr. PAYNE still remain members of that commission.

President McKinley, on September 13, 1898, appointed Senator Cushman K. Davis, of Minnesota; Senator WILLIAM P. FRYE, of Maine, and Senator George Gray, of Delaware, as members of a commission to negotiate a treaty with Spain. This commission met at Paris on October 1, 1898, and concluded the treaty of Paris on December 10, 1898, the famous treaty which restored peace between the two countries, assured the independence of the people of Cuba, the acquisition of Porto Rico, Guam, and the Philippines by the United States, and, all must concede, greatly advanced the prestige of the United States.

President Roosevelt, on March 4, 1903, appointed Senator HENRY CABOT LODGE, of Massachusetts, a member of the tribunal to consider and decide the boundary line between Alaska and Canada under the provisions of the convention between the United States and Great Britain signed at Washington January 24, 1903. The decision of the Alaskan Boundary Tribunal, rendered October 20, 1903, was very favorable to the contention of the United States, and of marked importance in settling the last of the series of questions of difference between the two nations.

Now, Mr. President, I have recapitulated all the instances, and it is suggestive that Washington, Adams, Jefferson, Grant, Harrison, a great constitutional lawyer, Cleveland, McKinley, and Roosevelt appointed the commissions I have named, and chose judges, Senators, and Representatives.

If we search the merits of public men, contemporaries of the men just named, it would be difficult to select other names of men who might have rendered such good service as the commissioners appointed did render. In the history of our country it would be difficult to recount any other series of related instances wherein the wisdom of the Presidents appointing the several commissions was followed by such brilliant and substantial successes.

If it be said that the Monetary Commission and the Bering Sea Commission failed of success, it should also be said that in the silver contention the recent history of coinage has shown that success in this generation is impossible.

No one can tell what controversy over bimetalism there may be a hundred years hence, because, as John Stuart Mill says, it is characteristic of a really great question that it is never really settled. In the Bering Sea controversy the claim that the part of the ocean sought to be declared mare clausum was such that it was foredoomed to inevitable failure.

This unbroken practice of one century embodies the construction of Presidents of all parties and of Congresses of differing political complexion. The followers of Hamilton and of Jefferson, beginning with Washington and Jefferson themselves, have alike sanctioned the appointment of such commissions. The service on such commissions of the early Chief Justices, and later of their associates, must be taken to be an incidental approval of the constitutionality of such commissions. The acceptance of such service by Jay, Ellsworth, Nelson, Harlan, and Brewer serves to show a uniform construction by the Supreme Court that the practice is constitutional. Not only did these able judges serve, but the silence of the Supreme Court in respect to such service is a judicial acquiescence in the constitutionality and propriety of such service.

Mr. President, I can not believe that during the century, from the early Chief Justices down to the present—I can not believe that that august tribunal would have remained, or could have remained, silent in respect of such an important infraction of the Constitution by their associates.

The foremost men in the Senate and in the House in each generation have been selected for and have served upon these commissions with the acquiescence of their associates in both Houses. The emergencies which these commissions were intended to meet and the efficiency and success of the commissions themselves best prove the wisdom of selecting our public men, whose experience in affairs, coupled with ability and character, guarantee to the nation that our side of great controversies, in which our representatives must meet the best trained representatives of other nations, will not be intrusted to untried men, that our commissions will not be an experiment, but a safe bulwark; and I submit that it can only be made so during the life of this country by continuing the practice which has been unbroken and uniform since the days of Washington, Marshall, and Jefferson.

Mr. President, the facts I have stated with very brief comment need scant comment. The history of these commissions convinces us of the wisdom and the necessity of the practice. The Presidents who have appointed the commissions are among the greatest of our Executives. The persons named have been

the fittest and most worthy. The results have vindicated alike the wisdom of the act and the benefits of such practice. Other Presidents have felt the need President McKinley felt. Senator Hoar, the eminent Senator from Massachusetts, to whom we lately devoted a day of mourning in this Capitol, related that President McKinley told him that it was not in general understood how few people there were in this country outside of the Senate and House of Representatives and the Federal judiciary qualified for important diplomatic service in special emergencies wherein our representatives must contend with the trained diplomatists of Europe who had studied such subjects all their lives.

From Jay and John Marshall to the present justices of the Supreme Court, by the service on such commissions by some of its members (and in their high office they must be lawyers and also statesmen jurists), our highest court must be considered to affirm the constitutionality of the practice. The acquiescence of Congress during a century shows that the Senate and House have in each generation, viewing the exigency, studying the membership of these commissions, approving the selection of such commissioners from among their associates, found, as I have endeavored to show briefly, as the history of the commissions shows, the great necessity upon the Executive in each case to appoint such trained public servants as commissioners, and it must also have been found that the practice has been helpful to the Congress in its deliberations of the questions committed to their associates.

This practice will prevail in our country so long as the tenure of public service is uncertain, and so long as the mass of our people are engaged in the pursuit of wealth in the development of the country. So long will it be necessary and advantageous to the nation for our Presidents to select from the small body of trained men in the Federal, legislative, and judicial service special agents to represent the United States in diplomatic emergencies of great moment.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House insists upon its amendments to the bill (S. 4938) regulating the use of telegraph wires in the District of Columbia, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. BABCOCK, Mr. ALLEN, and Mr. MEYER of Louisiana managers at the conference on the part of the House.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17994) to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Reservation in Wyoming, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3343) to authorize the Anacostia, Surrattsville and Brandywine Electric Railway Company to extend its street railway in the District of Columbia.

#### HARRIET E. PENROSE.

Mr. TALIAFERRO submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 202) granting a pension to Harriet E. Penrose, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment and agree to an amendment inserting in lieu thereof "forty," and that the Senate agree to the same.

P. J. McCUMBER,

N. B. SCOTT,

J. P. TALIAFERRO,

*Managers on the part of the Senate.*

H. C. LOUDENSLAGER,

GEORGE R. PATTERSON,

WILLIAM RICHARDSON,

*Managers on the part of the House.*

The report was agreed to.

#### AGRICULTURAL RESOURCES OF THE SEMIARID REGION.

Mr. NEWLANDS. I ask the Senator from Idaho to yield to me for a moment to request the printing of a document which will cost less than a hundred dollars.

Mr. HEYBURN. I yield.

Mr. NEWLANDS. I ask that of this statement of the agricultural resources of the semiarid region 5,000 copies be printed.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Nevada?

Mr. KEAN. What is the document?

Mr. HANSBROUGH. What is the nature of the paper?

Mr. NEWLANDS. It is a statement of the agricultural resources of the semiarid region.

Mr. HANSBROUGH. Written by whom?

Mr. NEWLANDS. It is a very valuable statement published in one of the leading agricultural papers.

Mr. KEAN. What is it—a magazine article?

Mr. NEWLANDS. No; I do not understand it to be such. Most of it is typewritten.

Mr. KEAN. I supposed the Senator was familiar with it. Let us have the title read.

The Secretary read as follows:

Resources of the semiarid region. Compilation showing the great latent agricultural wealth of the middle belt of the United States heretofore considered unfit for farming operations. The Campbell method of soil culture. Work of the Department of Agriculture in introducing new arid-land crops.

Mr. NEWLANDS. It relates to very important questions in the semiarid regions.

Mr. KEAN. Is it the Senator's article?

Mr. NEWLANDS. No.

Mr. PLATT of Connecticut. By whom is it?

Mr. NEWLANDS. It says, "Work of the Department of Agriculture in introducing new arid-land crops. Campbell method of soil culture. Compilation showing the great latent agricultural wealth of the middle belt of the United States heretofore considered unfit for farming operations."

It was handed to me by a gentleman in whose judgment I have great confidence. He said it contained a great deal of valuable information applicable to the semiarid region. I understand the cost will be less than \$100.

Mr. PLATT of Connecticut. What I was inquiring was, Who is the author of the paper?

Mr. NEWLANDS. It is republished from Forestry and Irrigation, Washington, D. C., March, 1905. I do not know who the author of it is.

Mr. PLATT of Connecticut. I do not make any objection.

The PRESIDENT pro tempore. Is there objection?

Mr. KEAN. I do not make any objection, but I wanted to know what the article was.

The PRESIDENT pro tempore. The Chair hears no objection to the request of the Senator from Nevada.

#### AMENDMENT OF INTERSTATE-COMMERCE LAW.

Mr. DOLLIVER. By the courtesy of the Senator from Idaho, I desire the attention of the Senate for a moment. In view of the fact that I have to attend a conference committee, I ask the Senate to consider the joint resolution which I offered yesterday, and which was read a few minutes ago.

I introduced the joint resolution out of a very strong belief that it will facilitate a wise disposition of pending questions relating to the amendment of the interstate-commerce law. I have been in Congress long enough to see more than one material amendment made to that law; not the least important of these was the act of 1903 relating to rebates and discriminations. I believe that nearly everyone agrees that the time has come for a thorough examination of the interstate-commerce question and the enactment of laws in accordance with the spirit and purpose of the President's annual message.

To my mind it is not credible that a country like ours, which has by unanimous consent established the rate of hack fares, and which in all its cities and towns requires so humble an occupation as hauling goods for hire in a wagon to be conducted under a strict public ordinance, will permanently allow the great instrumentalities of commerce to go without the effective supervision of the laws of the United States.

I had indulged the hope that legislation covering these questions would be perfected in the present Congress. I am aware, however, as everyone here is aware, of the difficulty, amounting practically to an impossibility, of disposing of these questions at the present session. Personally, I have been disappointed that we have not been able to frame an act clothing the Interstate Commerce Commission with authority to stand between the shippers and the railway carriers for the purpose of settling differences which may arise as to the rates of transportation.

I have no doubt that such a tribunal will be created by law and invested with an adequate power to give effect to its orders in respect to controversies of this character. Such controversies are unavoidable, and in practice no sufficient means are at hand to settle them.

The question which this resolution raises is whether the investigation of that subject, which evidently is to be made by some authority of Congress during its vacation, should be con-



ducted by the Senate committee alone or by a joint commission in which both Houses shall be fairly represented; and I have presented this resolution because I feel that the public inquiry which has been proposed in the resolution offered by the honorable Senator from New Jersey [Mr. KEAN] is of such vast significance that we ought to make it contribute to a prompt and adequate solution of the problems that are involved.

It has been my opinion, amounting to a firm conviction, that an inquiry such as is proposed by the honorable Senator from New Jersey conducted by the Senate committee alone would not contribute to that harmonious action of Congress which is necessary to the enactment of important laws. I believe that a joint commission, in which the Senate committee and the House Committee on Interstate Commerce could sit together, going to the bottom of all the problems that are involved, would be able to agree upon a report which would bring the two Houses of Congress together and insure the enactment of an adequate law to cover the questions which relate to interstate commerce. It has been my fear that the Senate investigation, conducted without the participation of the House of Representatives, would be less effective in producing satisfactory results in legislation than if the two committees sit together and by harmonizing differences which may arise reach a result which would command the acquiescence of both Houses of Congress and satisfy the just expectations of the country.

For that reason I have ventured to introduce this resolution, and I should be very glad if the Senate would take favorable action upon it.

Mr. KEAN. I move to refer the joint resolution to the Committee on Interstate Commerce.

Mr. FORAKER. Mr. President, I wish to say a word before the joint resolution goes over, in answer to what has been said by the Senator from Iowa.

Mr. HEYBURN. I must decline at this time to yield for a discussion of this question. I yielded merely because the Senator from Iowa stated that he desired to attend a conference committee meeting and he could not remain on the floor, and I expressly did decline to yield for any debate upon the matter.

Mr. CULLOM. I think in a very few minutes we can get the resolution out of the way.

The PRESIDENT pro tempore. The Senator from New Jersey moves the reference of the joint resolution introduced by the Senator from Iowa to the Committee on Interstate Commerce.

Mr. FORAKER. I wanted to speak in behalf of that motion that it should be so referred. I said to the Senator, through the Chair, when the Senator from Iowa asked permission to address the Senate in behalf of the resolution which he has introduced, that perhaps it would provoke debate, and I thought it would not be fair to let one side be heard unless some one who might desire should be permitted to say something in answer. I am not insisting upon it, however. I am willing that the vote may be taken now.

What I wanted to say, if the Senator will indulge me, I can say in a moment. If I find it necessary, I suppose I can take occasion to speak on his bill and say whatever I may desire. But I can say in a minute now what I wish to say.

There has been a constant investigation of this subject by the respective committees of both Houses going through months and even through years. A great deal of testimony has been taken. So much was taken in the House that the House felt qualified to act, and did pass a bill and send it to the Senate.

That bill came to the Senate some ten days or two weeks ago. It was referred to the Committee on Interstate Commerce, and that committee, which had already been taking testimony, proceeded to the consideration of that measure. But under the pressure we were subjected to here it was impossible to give it any satisfactory consideration or investigation. The result was that the committee concluded to ask for the resolution the Senator from New Jersey has presented to the Senate, our idea being that we would complete our own investigation, take what additional testimony may be necessary (I do not think it will be a great deal), and that we could proceed effectively and expeditiously to do that.

If we are to have a joint commission of the character described by the Senator from Iowa in his resolution it will make a very cumbersome sort of committee, and I think it is objectionable in that respect. I do not think there is any necessity for us to go into the whole subject on many points involved. In the proposition to further legislate to confer power upon the Interstate Commerce Commission, there has been already a thorough and satisfactory investigation. There are only a few points that members of the Senate wanted to have further light upon, and I think we can reach the end aimed at much more

expeditiously, much more economically, and much better in every way if the Senate committee alone be authorized to make this investigation.

Now, I might say a good deal more, but inasmuch as I am speaking with the indulgence of the Senator from Idaho, who is anxious to proceed, I will submit the matter without further remarks.

Mr. KEAN. I ask for a vote on my motion.

The PRESIDENT pro tempore. The Senator from New Jersey moves the reference of the joint resolution to the Committee on Interstate Commerce. The question is on agreeing to the motion.

The motion was agreed to.

#### PURE-FOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 6265) for preventing the adulteration or misbranding of foods or drugs, and for regulating traffic therein, and for other purposes.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. LODGE] offered an amendment to the pending bill, which will be read to the Senate.

The SECRETARY. On page 19, line 17, insert:

*Provided further, That when in the preparation of food products for shipment which are preserved by an external application applied in such manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise, the provisions of this act shall be construed as applying only when said products are ready for consumption.*

Mr. SPOONER. I think the amendment ought to be passed over until the Senator from Nevada [Mr. STEWART] is in the Chamber.

Mr. HEYBURN. I ask for a vote on the amendment.

Mr. LODGE. Do I understand that the Senator from Idaho is opposed to this amendment?

Mr. HEYBURN. It has not been explained. I might not be opposed to it if I understood it thoroughly.

Mr. LODGE. As I stated when I offered the amendment, it is a simple restoration to the bill of a provision of the bill as passed by the House. There are many articles of food prepared where the wrapper, the substance in which it is inclosed, might easily contain a substance injurious. It is not used; not eaten. It is taken off before the food is prepared for consumption. And yet under this bill all such articles would immediately become liable to the very drastic provisions of this law. It seems to me that the House provision ought to be retained, and I can see no good reason for its being omitted.

Mr. HEYBURN. I will accept the amendment after the explanation of the Senator. I ask now for a vote on the bill, if there be no further amendment.

The PRESIDENT pro tempore. The question is upon agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. PLATT of Connecticut. I should like to offer some amendments to this bill, if there is not one pending already.

The PRESIDENT pro tempore. No; the one which the Senator from Massachusetts offered has just been agreed to.

Mr. PLATT of Connecticut. I understood at one time that the Senator from Nevada [Mr. STEWART] had offered an amendment to this bill.

Mr. LODGE. The Senator from Nevada did offer an amendment.

The PRESIDENT pro tempore. There are no amendments on the table offered by the Senator from Nevada.

Mr. PLATT of Connecticut. I am sure my recollection is not at fault that the Senator from Nevada offered an amendment to the bill or that he had one printed which he proposed to offer. I thought it was offered. But, Mr. President, I will suggest some amendments that I should like to have made, if the Secretary will keep a memorandum of them.

In line 24, page 12, after the word "shall," I move to insert the word "knowingly;" on page 13, line 3, after the word "who," to insert the word "knowingly," so as to read: "who knowingly shall receive, etc.;" in line 7, on the same page, before the word "deliver," to insert the word "knowingly."

Mr. SPOONER. The Senator wants to insert the word "knowingly" after the word "having," in line 6, also, does he not? It would then read:

Who, having knowingly received, shall knowingly deliver.

Mr. PLATT of Connecticut. The word "knowingly" I propose comes in in line 3—"who shall knowingly receive \* \* \* or who having received shall knowingly deliver."

Mr. SPOONER. Perhaps that covers the proposition.

Mr. PLATT of Connecticut. Then, in line 8, after the word "or," I propose to introduce the word "knowingly;" in line 10,

after the word "shall," to insert the word "knowingly;" and in line 13, after the word "shall," insert the word "knowingly." Then strike out, on page 19, the proviso from line 5 to line 17.

I agree, Mr. President, that there would not be very much left of the bill if this amendment should be adopted, but the bill is framed on an entirely wrong theory. The man who ought to be caught and punished is the man who adulterates food or misbrands food, or adulterates drugs or misbrands them. He is the man who ought to be caught. He is the man who is guilty. He is the man who is doing the mischief which the people of this country want Congress to remedy.

But, Mr. President, this bill is not aimed at that man, except, perhaps, in line 24 on page 12:

And any person who shall knowingly ship or deliver for shipment.

It will be observed, unless I am mistaken, that there is no provision in the bill which makes it a penal offense to manufacture or to adulterate any manufacture. Is it not rather strange that it escaped the attention of this committee that has been thirteen months perfecting this bill? If there is any provision in the bill which proposes to punish a man who notoriously and openly adulterates food or drugs or misbrands food or drugs I have yet to find it.

I can not account for it, Mr. President—it seems a most remarkable omission in the bill—that the man who is really the guilty man, the man whose actions originally and primarily are the cause of all the suffering in the country from adulterated drugs and foods and misbranded drugs and foods, there is no provision in this bill to punish. If there is I have not yet been able to find it, and I have studied the bill with a good deal of care. Nor is the man who sells in the first instance the adulterated articles to be punished. The man who sells in the first instance the adulterated article and the man who adulterates go scot free under this bill as far as criminal punishment is concerned.

Mr. HEYBURN. I call the Senator's attention to section 7.

Mr. PLATT of Connecticut. I may be mistaken.

Mr. HEYBURN. Line 19.

Mr. PLATT of Connecticut. Oh, that, Mr. President, is another thing.

That any manufacturer, producer, or dealer who refuses to comply, upon demand, with the requirements of section 6 of this act shall be guilty of a misdemeanor.

Mr. HEYBURN. "And any person found guilty of manufacturing or offering for sale."

Mr. PLATT of Connecticut. Oh, yes; that is true; but in this first section, which is the one I complain of, he goes free.

The persons "who shall ship or deliver for shipment," and the persons "who shall receive," and the persons—

who, having received, shall deliver in original unbroken packages for pay or otherwise, or offer to deliver to any other person any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia, the Territories, or insular possessions of the United States such adulterated or misbranded foods or drugs, or who shall export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding \$200 for the first offense, and for each subsequent offense not exceeding \$300, or be imprisoned not exceeding one year, or both, in the discretion of the court.

Mr. President, I think I was right in my first proposition that there is no penalty attached here for simply manufacturing and adulterating and, having manufactured, selling goods so adulterated. It certainly is not in the first section, which I have read.

Now, section 6:

That every person, company, or corporation who manufactures or produces and delivers for interstate or foreign shipment or transportation—

He has a penalty upon him. But that is not a penalty for manufacturing; it is not a penalty for adulterating; it is not a penalty for selling the manufactured or adulterated articles, except if he manufactures or produces and delivers for interstate or foreign shipment. There is no penalty for that either.

Mr. HEYBURN. May I interrupt the Senator from Connecticut?

Mr. PLATT of Connecticut. Certainly.

Mr. HEYBURN. The penalties are provided for on page 13, lines 14, 15, and 16, and are "not exceeding \$200 for the first offense, and for each subsequent offense not exceeding \$300, or be imprisoned not exceeding one year, or both."

Mr. PLATT of Connecticut. No, not at all.

Mr. HEYBURN. Section 7 refers back to that section for the penalty.

Mr. PLATT of Connecticut. But that is the person who, having received, shall deliver or sell, not the manufacturer. What I contend is that the man who does the wicked work has no penalty against him in this bill.

Section 6 is that if a man "manufactures or produces and delivers for interstate or foreign transportation" he must deliver a sample of goods when called upon by the Secretary of Agriculture, and, if he does not do that, in another section he is made responsible criminally. But there is no penalty there for adulterating. That penalty is for not delivering samples when the Secretary of Agriculture thinks that perhaps he has adulterated. Section 7, to which I was referred, says simply that—any person found guilty of manufacturing or offering for sale, or selling, any adulterated, impure, or misbranded article of food or drug in violation of the provisions of this act shall be adjudged to pay, in addition to the penalties hereinbefore provided for—

Which have not been provided for at all—

all the necessary costs and expenses incurred in inspecting and analyzing such adulterated articles which said person may have been found guilty of manufacturing, selling, or offering for sale.

So I still stand to my original proposition that this bill is aimed—

Mr. HEYBURN. That is provided for in section 7, line 17, on page 20:

That any manufacturer, producer, or dealer who refuses to comply, upon demand, with the requirements of section 6 of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding \$100 or imprisonment not exceeding one hundred days, or both.

Mr. PLATT of Connecticut. There is nothing against a man who adulterates unless he refuses to deliver samples when the Secretary of Agriculture calls for them; there is no penalty here for his adulteration, and there is nothing in this bill which provides a penalty for a man who adulterates, either for adulteration or for selling his adulterated article.

So I stand to my original proposition that the theory of this bill is all wrong. The man who ought to be sought and caught and punished is the man who adulterates, and who, having adulterated, sells his adulterated article; but the theory of this bill is to go for the retailer, to go for the little groceryman; to let the big criminal escape and to get the little fellow. That is all there is in this bill, Mr. President.

So far as I know, the only reason that has been given for the passage of a national pure-food law is that the State can not reach the matter by catching and punishing the little fellows, and the National Government can. It reminds one, Mr. President, of the cartoons that we see sometimes in our daily papers of the great big, burly policeman, who does not see the burglar who is running away, but catches some little fellow, who has been trying to purloin from an apple stand, and hauls him up.

I submit, Mr. President, that after all these thirteen months of work by this committee, and after all the information that they have been enabled to derive from the real author of this bill, Doctor Wiley, of the Agricultural Department, they ought to give us something which would reach the evil and remedy it; something more than putting every retail dealer in the United States in prison when he might have innocently sold some adulterated article of food or drug or some misbranded article of food.

It is said that this is all provided for as to the innocent seller of these adulterated articles. There will be innocent sellers because the cunning with which the original adulterators and manufacturers carry on their business is just of the kind calculated to deceive the retail dealer. The theory of the bill is to catch him and punish him, unless he can furnish a guaranty from the man of whom he bought the article which he has for sale, and which he sells, was not adulterated or misbranded.

Just see how that would work, Mr. President. Here is a little grocery store or a drug store with a small capital; it is, perhaps, carried on by some woman who is in a small way selling provisions. She is to be prosecuted. If she can show that when she bought the particular article from the person who sold it to her he gave her a written guaranty that that article was not adulterated or misbranded, she can escape—what? Not prosecution, but punishment. She can be put to all the expense of prosecution, haled before the court, obliged to employ somebody to try her case; and then if she can show that guaranty that she got from the person from whom she purchased the goods, then she is not punished.

But, Mr. President, that is utterly impracticable. It involves the idea of a guaranty commencing with the original manufacturer and following down another guaranty from the person who bought of him and sold to the next man, until it gets down to the retail grocery store, which, as I have said, may be kept, and very often is kept, by a poor, hard-working woman, who is trying to get a living in that way. There may be thirty or forty or fifty of these guaranties required. That is utterly impracticable, Mr. President.

Pass this bill and you will not find a case of a small retailer whose guaranty either has a possible or practicable effect. You can not get it.



I think this bill ought to be recommitted, and I think it ought to be reconstructed on entirely different principles. I think it ought to be so reconstructed that the guilty person would suffer and the innocent person would not be subjected to punishment.

We have heard a great deal in recent years about contracts in restraint of trade and combinations in restraint of trade. The whole country seems to be worried about combinations in restraint of trade; and yet the Senator from Idaho, who shares with the rest of the country the feeling that combinations in restraint of trade ought to be prohibited, is urging the passage of a bill, without discussion, that will do more to restrain trade in the United States than a good many combinations and trusts. It is a bill in restraint of trade, Mr. President.

I might vote for the bill if the amendments which I have proposed were adopted, not because I would by any means consider it a perfect bill then, not because it would reach the real guilty parties, but because it would at least wipe out what I consider the enormous proposition that a half million retail grocers in the United States can be subjected to criminal prosecutions if they innocently sell an adulterated or misbranded article.

Mr. SPOONER. Mr. President, I suppose the Senator from Idaho is quite willing that this bill shall go over until 8 o'clock.

Mr. HEYBURN. I should like to have a vote on the amendments proposed by the Senator from Connecticut [Mr. PLATT]. I am ready to take up those propositions, and, so far as I may, I will accept the amendments. Unless the Senator is opposing the amendments, I suppose that would be proper—to have a vote on them.

Mr. SPOONER. No, Mr. President; I am not sure that I am opposing the amendments, but I want to draw the attention of the Senate for a very few moments to some general observations in regard to this measure. Senators are all tired, and I am sure none is more so than myself. I do not intend to take any time simply for the purpose of taking time against this bill. It is a complicated subject; it is one that challenges the most careful investigation and thought of expert legislators; it is one that touches the people in every locality, large and small, in the United States.

Mr. HEYBURN. Will the Senator permit me—

Mr. SPOONER. Yes.

Mr. HEYBURN. To suggest that there are on the committee which reported this bill, so far as experienced and recognized standing is concerned, some expert legislators, and one of them the oldest in this body? So the bill was not reported by men entirely unused to the consideration of matters of legislation.

Mr. SPOONER. Oh, Mr. President, the Senator from Idaho knows that I did not intend to reflect upon the intelligence of the committee. I simply intended to reflect somewhat upon the good sense of the bill, which I do not accuse the committee of drafting.

Mr. HEYBURN. They reported it.

Mr. SPOONER. For instance, my eye falls upon a proposition here which the Senator from Connecticut [Mr. PLATT] accidentally overlooked, and he rarely overlooks anything which ought to be seen. Take section 3. It puts all the district attorneys of the United States, so far as prosecutions under the provisions of this bill are concerned, absolutely under the domination of the Secretary of Agriculture.

Mr. HEYBURN. May I interrupt the Senator?

Mr. SPOONER. If the Senator will permit me to state my proposition, I know he will be better situated with reference to antagonizing it. Section 3 provides:

Sec. 3. That it shall be the duty of every district attorney to whom the Secretary of Agriculture shall report any violation of this act, or to whom any person, acting either on his own behalf or as the officer or agent of any State or Territory, the District of Columbia, or insular possession, shall present satisfactory evidence of any such violation, to cause proceedings to be commenced and prosecuted without delay for the fines and penalties in such case provided.

Mr. HEYBURN. Is that section 3?

Mr. SPOONER. Yes; section 3, on page 14.

Mr. HEYBURN. The section provides that the Secretary shall present "satisfactory evidence."

Mr. SPOONER. Oh, no; it says:

Or to whom any person, acting either on his own behalf or as the officer or agent of any State or Territory, the District of Columbia, or insular possession, shall present satisfactory evidence.

Mr. HEYBURN. The section is all one sentence—

Mr. SPOONER. That may be.

Mr. HEYBURN. And it says, "shall present satisfactory evidence."

Mr. SPOONER. I think that does not apply to the Secretary.

Mr. HEYBURN. It is so punctuated here.

Mr. SPOONER. It may be so punctuated, but it does not so read, as I read it.

Mr. PLATT of Connecticut. Mr. President—

Mr. SPOONER. I yield to the Senator from Connecticut.

Mr. PLATT of Connecticut. I did not overlook this point, but I was speaking upon a single objection to the bill. I now wish to call the attention of the Senator from Wisconsin to another somewhat similar proposition to be found on page 14. It is as follows:

If it shall appear from any such examination that any of the provisions of this act have been violated, the Secretary of Agriculture shall cause notice to be given to the parties concerned with opportunity to be heard under such rules and regulations as may be prescribed by the Secretary of Agriculture, and if after such hearing it is found that any of the provisions of this act have been violated, etc.

First, the Secretary is to determine whether the provisions of the act have been violated before he can have this conference or hearing with the parties, and then, if it is found that the provisions of the act have been violated, he certifies to the district attorney a copy of the results of the analyses, etc., but he does not give the parties an opportunity to be heard until he has first determined that the law has been violated.

Mr. SPOONER. Certainly; but I took that to be an ex parte investigation by the Secretary of Agriculture and the requirement that he should certify the facts as he, in his judicial capacity or quasi-judicial capacity, should find them to exist; but the district attorney would be graciously permitted, I thought, by the language of the bill, to form his own opinion as a lawyer whether the conclusions of the Secretary of Agriculture would justify him in bringing the matter before the grand jury or prosecuting the case.

Mr. HEYBURN. Will the Senator permit me to ask him in what does that differ from any other criminal proceeding?

Mr. SPOONER. I do not criticize that. I was only saying why I do not criticize it.

Mr. HEYBURN. I would ask if that is not the usual manner through which cases reach the district attorney?

Mr. SPOONER. I do not criticize that. That is one of the very few provisions in this bill which seems to me fairly exempt from just criticism. But I was referring to section 3, which, as I read it, makes it the absolute duty of the district attorney to prosecute criminally all cases of violation reported to him by the Secretary of Agriculture as violations.

Mr. HEYBURN. If the evidence is satisfactory to him.

Mr. SPOONER. No; when it comes to the other persons they must present to the district attorney satisfactory evidence, but when it is an official complaint made by the Secretary of Agriculture to the district attorney, the district attorney is obliged, under this bill, to prosecute immediately.

Mr. HEYBURN. Mr. President, it is not so written in the proposed law. It is not written that way; it is not intended that way, because there is no distinction between the right and the duty of any other person and the right and duty of the Secretary.

Mr. SPOONER. Well, Mr. President, of course if the Senator from Idaho knows that it is not written that way—

Mr. HEYBURN. I have it here.

Mr. SPOONER. So have I—I must confess that I must be wrong. If the Senator says it was not intended to be written that way, I have only to say that the intent was not expressed in good plain Anglo-Saxon terms, which ought to be employed in penal or quasi-penal statutes. But it is in harmony with all the provisions of this bill.

Mr. President, I dislike extremely to be in the attitude, or seem to anyone in the United States to be in the attitude, of opposing legislation in the interest of the public health, intended to safeguard the people against poisonous foods and adulterated and deleterious drugs. I decline to be put in that attitude because I can not see my way clear in the expiring hours of this session to permit the enactment without protest of this bill so full of manifest injustice.

I spent some years as a member of the committee on epidemic diseases and the public health to frame and enact legislation which would conserve the public health of the United States, both in relation to quarantine and in relation to the proper testing of the drugs named in the pharmacopœia. We enlarged the statutes so that the national authorities could act in conjunction with the boards of health of the various States. They meet here once or twice a year, all acting together on committees, each bringing the trouble which has occurred in his own locality—all more or less expert, not as draftsmen of bills, but as health officers—and they devise rules and regulations and safeguards for the public health. The scheme has worked admirably. Congress has dealt liberally in the matter. In that

law, Mr. President, Senator Vest, of Missouri, whom I never can mention here without characterizing as one of the most eminent, one of the most eloquent, and one of the ablest legislators we have had, took great interest.

We provided for protecting the people not by the Secretary of Agriculture, not through an army of inspectors and agents of the Agricultural Department peering around every corner in every village and every town and every city in the United States to find some citizen who, unaware, had been led or fallen into the innumerable traps made for him by this bill, but we provided for tests, not simply chemical tests, but other tests by pathologists, as well as chemists—by men who were to ascertain not simply whether a given drug was adulterated or not, but the effect upon the human body or the human mind of the adulteration.

Mr. HEYBURN. Will the Senator yield for a question?

Mr. SPOONER. Always.

Mr. HEYBURN. Has that legislation proven effective to the extent of driving poisonous and deleterious substances from the market?

Mr. SPOONER. Of course not.

Mr. HEYBURN. Has it protected the people against the imposition of misbranded articles?

Mr. SPOONER. Of course not.

Mr. HEYBURN. Then there is still a need for such legislation supplementing it?

Mr. SPOONER. Yes; but this law has only been in force two or three years.

Mr. HEYBURN. Will it, when it has been in force longer, protect the people so that there will be no need of this legislation?

Mr. SPOONER. I am not a prophet nor the son of a prophet.

Mr. HEYBURN. Was it framed with a view of driving from the market poisonous and deleterious substances?

Mr. SPOONER. Certainly it was.

Mr. HEYBURN. And in several years' operation it has not effected that purpose.

Mr. SPOONER. It has just begun to operate. The laboratory has been completed by a large expenditure of money appropriated by the Congress for the purpose.

Mr. HEYBURN. Does it do more than to tell people how they are poisoned? Does it protect them from being poisoned?

Mr. SPOONER. It can not tell people how they are poisoned without first finding out how they are poisoned, and that is the object of it, and that is the professed object of this bill.

Committed to that institution, under the Marine-Hospital Service, in conjunction with the boards of health from all the States and Territories of the United States, is this whole subject of pharmacology, and it is a splendidly organized institution. It is, of course, beginning its development, but it is doing, I think the health officers of the States and Territories would say, good work, and I submit to the Senator whether it is wise to duplicate this work.

It is proposed here to confer this power on the Department of Agriculture, which has charge of forestry, with the various bureaus which have, by action of Congress, been consolidated with it, all doing good work, under a Secretary than whom there has been, and it is safe to say never will be, one more efficient. I want to know why the protection of the people against drug adulteration should be committed to the Agricultural Department?

Mr. HEYBURN. I would ask the Senator, is not the bureau to which he refers an adjunct of the Agricultural Department?

Mr. SPOONER. It is not.

Mr. HEYBURN. Under what Department of the Government is it?

Mr. SPOONER. Under the Treasury Department. But it has to do primarily, Mr. President, with the quarantine of the United States, and the line—

Mr. HALE. Mr. President—

Mr. SPOONER. Will the Senator allow me to finish my sentence?

Mr. HALE. It is a good sentence.

Mr. SPOONER. I do not say it is a good sentence, but it is my sentence.

Mr. HALE. That makes it a good sentence.

Mr. SPOONER. Thank you. The line between the national quarantine and the State quarantine, from the standpoint of interstate commerce, is so shadowy that it became absolutely necessary, in order that both should be effective, that there should be cooperation between the two—the authorities of the Federal Government and the authorities of the State governments. Now I yield to the Senator from Maine.

Mr. HALE. I have a report to make, and of course the Senator from Wisconsin wants it made.

Mr. SPOONER. Certainly.

#### GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. HALE. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. 19150) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1904, and for prior years, and for other purposes, to report it favorably with amendments.

I desire to give notice that I will ask the Senate to take up the bill when we meet this evening at 8 o'clock.

Mr. GORMAN. I could not hear the Senator from Maine. Is it his intention to call up the bill to-night?

Mr. HALE. I gave notice that I should ask the Senate to take it up when we come into session at 8 o'clock. It is essential that it should be passed to-night in order that the large bills may go into conference.

Mr. GORMAN. I supposed that would be the desire of the Senator.

#### EXECUTIVE SESSION.

Mr. SPOONER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at 6 o'clock p. m.) the Senate took a recess until 8 o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at 8 o'clock p. m.

#### PURE-FOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 6295) for preventing the adulteration or misbranding of foods or drugs and for regulating traffic therein, and for other purposes.

The PRESIDING OFFICER (Mr. KEAN in the chair). The pending question is on the amendment offered by the Senator from Connecticut [Mr. PLATT].

Mr. SPOONER. Mr. President, I do not think the unfinished business ought to be proceeded with in the absence of the Senator from Idaho [Mr. HEYBURN].

The PRESIDING OFFICER. Then without objection it will be temporarily laid aside.

#### CREDENTIALS.

Mr. MALLORY presented the credentials of JAMES P. TALLAFERRO, appointed by the governor of the State of Florida a Senator from that State to fill the vacancy in the term beginning March 4, 1905, until the legislature of the State shall fill the vacancy; which were read and ordered to be filed.

#### REPORTS OF A COMMITTEE.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. 1623) for the relief of Joshua T. Reynolds, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5592) granting an honorable discharge to Joshua T. Reynolds, asked to be discharged from its further consideration, and moved that it be postponed indefinitely; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. 5989) to remove the record of dishonorable dismissal from the military record of John Finn, alias Flynn, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1363) restoring the name of Henry L. Beck to the army rolls as captain and providing that he then be placed on the retired list, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed a bill (H. R. 19203) to provide for celebrating the birth of the American nation, the first permanent settlement of English-speaking people on the Western Hemisphere, by the holding of an international naval, marine, and military celebration in the vicinity of Jamestown, on the waters of Hampton Roads, in the State of Virginia, to provide for a suitable and permanent commemoration of said event, to authorize an appropriation in aid thereof, and for other purposes.

#### INTERSTATE COMMERCE COMMITTEE INVESTIGATION.

Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution proposing an investigation by the Interstate Commerce Committee, to report it favorably without amendment, and I ask for its present consideration.



The PRESIDING OFFICER (Mr. GALLINGER in the chair). The resolution will be read.

The resolution reported by Mr. KEAN, from the Committee on Interstate Commerce, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate on the 28th ultimo, was read, as follows:

*Resolved*, That the Committee on Interstate Commerce, or any subcommittee thereof, is instructed to sit during the recess of the Senate, at such times and places as may suit the convenience of said committee or subcommittee, to consider the question of additional legislation to regulate interstate commerce and to authorize the Interstate Commerce Commission to fix rates of freights and fares, and to acquire further information as to interstate commerce, including violations or evasions of the antirebate law and the devices and methods by which evasions are accomplished, and including refrigerator and other private car systems, industrial railway tracks, switching charges, and the like; said committee or subcommittee is authorized to employ experts, administer oaths, take testimony, send for persons and papers, employ a stenographer to report its hearings and to have them printed, which hearings shall be sent, as soon as printed, to each member of the Senate. Said committee shall make a full report of its proceedings hereunder by bill or otherwise within ten days after the meeting of the next Congress. And all necessary expenses to carry out the provisions of this resolution shall be paid from the contingent fund of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. TELLER. I ask that the first part of the resolution be again read.

The Secretary read as requested.

Mr. TELLER. I do not desire to object to the resolution, but I wished to know whether it was a scheme to have a joint committee.

Mr. KEAN. It is not.

Mr. TELLER. I see that it is not.

Mr. CULLOM. We referred that proposition to the Committee on Interstate Commerce.

Mr. KEAN. This is the resolution reported from the Committee on Interstate Commerce and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, and it is now reported back favorably.

Mr. TELLER. I have no doubt it will pass. Mr. President, I only wish to say that I think there is a necessity for doing something to make us acquainted with what should be the proper policy of the Government. I do not mean to say that the House bill sent here may not be in the right direction, but I should myself feel somewhat doubtful about the efficacy of that bill, as to whether it would accomplish what we desire as well as whether it is in a general way even such a bill as would accomplish the purpose the House desired to accomplish if it should become a law in that shape. I have examined the bill, and I suppose we shall be somewhat criticised here because we have not taken up that bill and passed it.

While I am in favor of the regulation of railroads instead of Government ownership, I do not believe that the Senate has had an opportunity since that bill came here to properly consider the bill, taking into view the importance of the questions involved. I say this because I think no one will charge me with being specially friendly to railroads, and I do not want to be classed as the enemy of them. I say the Senate could not consistently and properly attempt this kind of legislation in the closing hours of the session, the House bill coming to us entirely too late to justify us in making that attempt.

Mr. ALLISON. Mr. President, I wish to say a word respecting this resolution.

I am in entire accord with the resolution so far as it proposes to make a thorough investigation of this general subject, which has been treated of by the House. I agree with the Senator from Colorado when he says that it was impossible in the short time remaining of this Congress to deal with that question effectively, or even with proper debate to consider and act upon the House bill.

My colleague [Mr. DOLLIVER], who is a member of the Interstate Commerce Committee, has introduced a joint resolution which he explained to the Senate to-day, proposing, instead of the proposition now before the Senate, a joint committee in the nature of a commission, it being of course known that the House can not participate in this matter as a House. Whilst I would have preferred to adopt the proposition presented to the Senate by my colleague, I am satisfied that the general sentiment of the Senate favors the proposition now before the Senate.

I hope the resolution will be passed, and I feel sure that the Interstate Commerce Committee will vigilantly, actively, and successfully deal with this question during the vacation.

Mr. CULLOM. Mr. President, I do not know that it is worth while for me to say anything further than has been said.

I am a member of the Interstate Commerce Committee of the Senate, and I attended a good many of its sessions while it was

engaged in taking testimony on the general subject. I sympathized a good deal with the junior Senator from Iowa at the beginning of my attendance upon the hearings before the committee that we were having. I felt for a good while that perhaps it was the best thing for us to do, to report the bill to the Senate for its consideration, notwithstanding the committee itself could not agree upon any exact form of a bill that should be reported.

But as time went on and we became engaged in another very important transaction which took up all the time of the Senate, it became apparent that the committee could not report a bill that would be agreed upon by its membership.

I therefore joined with the other members of the committee in the determination that the only thing we could do deliberately and consistently was to continue the taking of testimony during the remainder of the session and then get leave to sit during the recess, by subcommittee or otherwise, until an agreement might be reached by the whole committee as to the exact form of a bill which should be reported at the coming session of Congress. So I joined in that request and in favor of the resolution just reported by the Senator from New Jersey.

As to the joint committee suggested by the junior Senator from Iowa, I did not agree to it. I have not at any time believed that a joint committee of the two Houses ever came to very much in the consideration of a question of this kind. I hope that this resolution will be passed, and I trust that during the coming vacation the committee will be able to come to an agreement as to what is the best thing to do in reference to the general subject.

Mr. MARTIN. Mr. President, I offer an amendment to the resolution, which I ask may be read.

The SECRETARY. In line 12, after the word "like," insert:

And also to consider what legislation should be enacted in relation to the liability of railroad companies engaged in interstate traffic or operating lines in any Territory of the United States for injuries received by their employees when in discharge of duty.

Mr. KEAN. Mr. President, personally I have no objection to that amendment, but as this is a resolution prepared by a subcommittee of the Committee on Interstate Commerce, and includes all the subjects they thought were proper for them to consider, I do not feel authorized to accept it. I know that the Committee on Interstate Commerce is perfectly willing to consider what is known as the "employers' liability bill" at any time when they have occasion, or when it is called to their attention. Therefore I do not feel authorized to accept the amendment.

Mr. MARTIN. As I understand the Senator from New Jersey, he thinks that the proposition embraced in the amendment is already included in his resolution.

Mr. KEAN. Practically so.

Mr. MARTIN. And he also says that the committee to act under his resolution will certainly take up this matter if asked to do it. If that is so, it is inconceivable that there should be any objection to the amendment.

Mr. President, this amendment is, in my judgment, one of importance. There are about 300,000 men in the United States engaged in the train service. The measure of liability of the railroad companies to these employees under existing law is exceedingly unsatisfactory and unjust. The old doctrine of fellow-servants which grew up under very different conditions from such as we have to-day is still in force in many of the States. In my own State it has been abolished, and in most of the States of the Union it has been abolished.

A bill was introduced here at the commencement of the Fifty-eighth Congress seeking to have this antiquated and unjust doctrine abolished in all interstate traffic. That bill has slumbered in the committee room. I have made earnest efforts to get a report on the bill in order that the Senate might vote upon it. I have been unable to get a report. The employees engaged in this important and responsible service feel that they have a right to have Congress consider this question and pass upon it one way or the other. It was of sufficient importance to induce the President of the United States, in his annual message sent to Congress, to make recommendations that a law should be enacted on this subject.

All I ask is that there be left no doubt about the duty of this committee, when it takes up the question of amending the laws in relation to interstate commerce, to take up also this proposition and examine it in the vacation and make a report at the commencement of the next session of Congress, so that it may be dealt with in one way or another. I think the amendment is one that commends itself to the consideration of the Senate, and I hope it will be adopted.

Mr. TELLER. Mr. President, the resolution offered by the Senator from New Jersey in behalf of the committee deals with

an entirely different question, a question of sufficient importance for one committee; and I should like to suggest to the Senator from Virginia, if I can have his attention for a moment, that it would be better for him to raise a committee on this particular subject. In the first place, to load the committee with two very important questions of this kind is simply to have delay in getting results. I shall be glad to join the Senator in raising a proper committee for this special purpose.

I agree with him that most of the States have gotten rid of the antiquated idea he speaks of. The State in which I live has passed a law upon the subject and probably does not need any more, and some other States have done the same. What I am anxious about is that the committee suggested by the resolution which was reported by the Senator from New Jersey shall proceed, and proceed intelligently and thoroughly, to do what I think they will find big enough work for any committee during vacation.

It may be that I am impressed with the difficulty they are going to meet more than I ought to be, but I know something about this matter. I doubt whether there is a committee in the Senate now, if they had the facts before them, that could under several weeks arrange the facts in such way as to determine what line of procedure they should adopt in order to carry out the purpose of a just and proper regulation of these roads. I have been anxious for years that we should regulate them in the interest of the transportation people who are using them and in the interest also of the people who have their money in these roads. I said the other day I should look—I think I used the term “in terror,” if I did not, I can now—upon the proposition if I thought it would be accepted that the Government of the United States should attempt to manage and control all the lines of transportation which are engaged in interstate commerce, for that practically includes all the roads in the United States.

I hope the Senator from Virginia will move for a separate committee, and I shall be glad to join him in raising such a committee, but it ought not to be composed of the same membership as the committee that is charged with this other great duty.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. NEWLANDS. Mr. President, I was inclined to share the views of the junior Senator from Iowa [Mr. DOLLIVER] as to a joint commission to inquire into the matter of rate regulation. Some time ago, anticipating that the Senate would not have time at this session to finally dispose of this question, I introduced a resolution providing for such a joint commission and defining the principles which should control in the framing of a comprehensive law, intended to meet every phase of the interstate-commerce question, providing for a national incorporation of railways, providing for a valuation of the railways and stock issued and bonds issued upon such valuation, and the approval of all bonds and stocks hereafter issued by such corporation by the Interstate Commerce Commission. These resolutions also provided for rate regulation by the Interstate Commerce Commission and for a pension for disabled employees, thus covering the question raised by the Senator from Virginia [Mr. MARTIN], and also for arbitration between railroads and their employees.

Those resolutions have gone to the Interstate Commerce Commission for their views as to the plans outlined and for suggestions and modifications of such plans, and they have also gone to the Commissioner of Corporations for similar report.

Now, Mr. President, I wish to add that I believe that if this committee of the Senate can sit consecutively for one month without being disturbed by other business it will be prepared to submit a bill to the Senate which ought to meet the approval of everyone.

For that reason I am in favor of the immediate session of this committee, and I am in favor of an early session of Congress for the purpose of considering its report. I trust the President of the United States will call an extra session in the middle of April, or the first of May, in order that we may be able to dispose of this question, clear our decks and proceed to other matters of reform legislation called for by the President's message, for I am glad to say that that message is, for the first time in the last decade, devoted almost entirely to questions of domestic reform, those questions which have not received the consideration which they ought to have received whilst the country has been engaged in this era of expansion and of legislation regarding extraterritorial questions.

I believe the time has now come for the serious consideration of many domestic problems, and I am glad to see that the Presi-

dent of the United States has called attention to them in his message. I believe that these extra sessions should be called for until these questions are disposed of.

We have one great question now pending of reform in our public-land laws, which ought to be the next question taken up, and, if it is not disposed of by the next Congress, I hope that an extra session will be called for the purpose of considering it.

Now, Mr. President, I do not believe there will be any adjustment of this railroad question, any complete adjustment, until we unify and simplify the railway systems of this country, and I do not believe we can accomplish that except through a national incorporation act, and that in inaugurating a national incorporation act we should simplify the system of taxation by making it a matter of mere mathematical calculation in the shape of a percentage tax on gross receipts, and thus do away with these innumerable taxing bodies and these innumerable taxing officials, and that we should center the power of rate regulation as far as practicable in one great tribunal of character and dignity, whose judgment will be looked upon with respect by the entire American people.

This is all I have to say regarding this resolution. I should have preferred a resolution for a joint commission. I believe a joint commission has worked admirably with reference to the merchant marine question. I believe it would work admirably with reference to this question and would bring the two Houses in harmony, but as it seems impossible to secure it I shall vote for this resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. HALE. I do not object, if the Senator from New Jersey can bring the matter to a conclusion immediately, but the general deficiency appropriation bill ought to be taken up at once.

Mr. CULLOM. I agree to that, and I think that the resolution is about to be adopted. I do not mean the amendment of the Senator from Virginia. I do not want that to be attached to the resolution. If we load up this committee with all sorts of questions pertaining to the general subject of regulation, we shall never get to the end of it, and we shall get nothing done.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. CARMACK. Mr. President—

Mr. HALE. I must object.

Mr. CARMACK. I am entirely in sympathy with the purpose of the resolution, and I hope under the circumstances the Senator from Virginia will withdraw his amendment.

Mr. CULLOM. And bring it in hereafter.

Mr. MARTIN. Mr. President, I have not the slightest idea of withdrawing the amendment. If the Senate wants to have the matter considered which is presented by this amendment there is no reason why it should not be done in this way. There is nothing in this proposition to hinder investigation on the main proposition. I realize that the question of regulating the rate making is the most important question now interesting this country, and under no circumstances would I impede that investigation.

But I do not intend that a proposition of this sort shall be disposed of without having fair consideration at so opportune a time as is presented now. I have been trying for a long time to get the Committee on Interstate Commerce—

Mr. KEAN. Mr. President, I will accept the amendment.

Mr. MARTIN. All right.

Mr. KEAN. And let the resolution pass.

Mr. HALE. Let us have a vote.

Mr. KEAN. I can not take up the time of the Senate at this late hour.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Virginia.

The amendment was agreed to.

The resolution as amended was agreed to.

#### GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. HALE. Now, let the deficiency bill be laid before the Senate.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 19150) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1904, and for prior years, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. HALE. Now, Mr. President—

Mr. OVERMAN. Is the bill in print?

Mr. HALE. Of course it has been printed.

Mr. OVERMAN. Very well. I understand it has only recently come from the other House.



Mr. HALE. I ask that the first formal reading of the bill be dispensed with, that it be read for amendment, and that the committee amendments be first considered.

The PRESIDING OFFICER (Mr. KEAN in the chair). Is there objection to the request of the Senator from Maine? The Chair hears none, and it is so ordered.

Mr. GORMAN. Mr. President, in view of the fact that this bill has just come from the printer and we have had but a short time to look at it, I suggest that it be read carefully, so that we may examine it while the reading is in progress.

The Secretary proceeded to read the bill. The first amendment of the Committee on Appropriations was, under the head of "Treasury Department," on page 5, after line 18, to insert:

The Secretary of the Treasury is hereby authorized to pay Cora B. Thomas her salary as a clerk in the Treasury Department at the rate of \$1,600 per annum from July 3, 1904, to March 5, 1905, and for this purpose the sum of \$1,080 is hereby appropriated, and from and after said date he is authorized, in his discretion, to continue the name of said Cora B. Thomas on the rolls of the Treasury Department in her present grade as a clerk.

Mr. GORMAN. Mr. President, that is so extraordinary a provision, providing that a certain employee shall be continued in office, that I should be glad to have the Senator from Maine explain it.

Mr. BAILEY. Mr. President, I am under the impression that this is a provision for an employee who was hurt in the Treasury Department.

Mr. GORMAN. Very well.

Mr. BAILEY. While, if she was injured by any fault of her fellow-employees, or by a defective elevator—I think the accident occurred in an elevator—

Mr. GORMAN. I did not understand that.

Mr. BAILEY. I think it would be right and proper that the Government should make some fair provision for her; but I think it ought to make such provision as is customary in cases like that, and not attempt to continue a disabled person on the roll as an employee of the Government.

Mr. President, I have just been informed by a Senator near me that this lady will later be able to perform her duties, and that this provision is probably intended to hold the place for her. If that is true, it is all right.

Mr. HALE. This is a very remarkable case, Mr. President.

Mr. GORMAN. I withdraw the inquiry, Mr. President.

Mr. MORGAN. Mr. President, I ask leave to put into the RECORD a letter from the Secretary of the Treasury in regard to this case, and also a letter of Mrs. Moore addressed to me. She has induced me to bring forward this subject. I wish to say that the lady who has written this letter to me is a most estimable person.

Mr. HALE. It is a most remarkable case, Mr. President. A single Senator can defeat it if he chooses to object.

Mr. GORMAN. I withdraw my inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama asks that certain papers which he has presented be printed in the RECORD. Is there objection? The Chair hears none, and it will be so ordered.

The letter and communication referred to are as follows:

WASHINGTON, D. C., March 1, 1905.

Hon. JOHN T. MORGAN,  
United States Senate.

DEAR SIR: The inclosed letter from Secretary Shaw, of the Treasury Department will place before you the facts in the case of Miss Cora B. Thomas. This is a peculiarly pitiful case.

Miss Thomas—competent, faithful, highly intelligent—was by the accident described maimed for life. Her salary ceased at the time of her accident, and she is indebted for the expenses of surgical service, as well as for the living expenses of her mother, herself, and a dependent relative.

Her physical suffering has been and is almost insupportable, but still more unbearable is the anxiety of this high-minded and noble woman as to the possibility of repaying her indebtedness and maintaining the aged mother, who is wholly dependent upon her.

Disinterested save as one who knows all phases of this case, I would beg you, dear sir, to use every effort in Miss Thomas's behalf. Anyone to whom the facts in this case are made clear can not, it seems to me, withhold hearty support of any measure for Miss Thomas's relief.

Thanking you for any attention which you may extend in this matter, I beg to subscribe myself,

Very respectfully, yours,

M. E. MOORE.  
(Mrs. WILLIS LORD MOORE.)

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, January 11, 1905.

SIR: I send you herewith a full report of the facts and circumstances attending the severe injury of Miss Cora B. Thomas, a clerk of this Department, on the 27th of April, 1904. There seems to have been a misunderstanding about this report, as the Department is to-day informed that you have been for some time expecting to receive the report, while the Department has been expecting that a bill for the relief of Miss Thomas would be introduced in Congress and referred here for report and recommendation.

The accident to Miss Thomas occurred on the 27th of April last, and a thorough investigation of the matter by this Department disclosed the following facts:

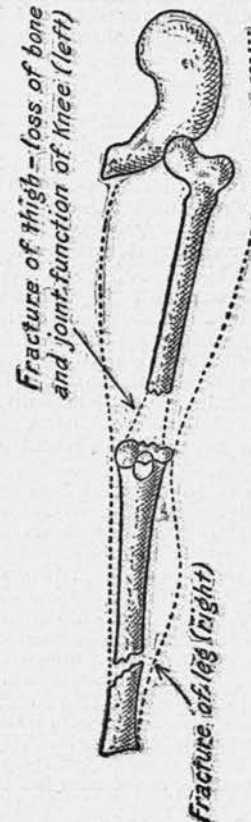
About noon of the day in question the engineer in charge of elevators in the Treasury Department authorized Edward Westerlund, coal passer, at the latter's request, to go on one of the elevators for the purpose of observing the method of its operation. Westerlund went to the freight elevator, and the operator allowed him to operate it on several trips up and down when there were no passengers. At 12 o'clock Perry, the regular operator of the elevator, was relieved for luncheon by Maurice M. Risler, a regular conductor, and Risler allowed Westerlund to make several trips with passengers while Risler was absent from the car.

On the last of these trips Miss Mary Taggart and Miss Thomas, clerks in the office of the Auditor for the Navy Department, entered the car at the subbasement. Miss Taggart entered the car safely, but just as Miss Thomas was entering the door, and before she had got fairly on the car, it suddenly started, which caused her to lose her balance and fall. Westerlund attempted to assist her, and while bending over to do so apparently moved the lever, either with his hand or with his body, thus releasing the car, which shot up rapidly, crushing both Miss Thomas's legs between the first floor above and the floor of the car. Westerlund succeeded in stopping the car before it passed the second landing.

All the testimony clearly showed that Miss Thomas did not stumble while entering the car, but that the car started while she was stepping aboard, and that she was thrown forward by the movement of the car. The accident was caused by negligence almost criminal in its nature on the part of Risler, who left the car to be operated by the coal passer, Westerlund, and on the part of Westerlund himself, who attempted to operate the car with passengers without the necessary knowledge and experience to run it, and who appears to have become confused and temporarily lost his head at the moment of the accident. There was no negligence on the part of Miss Thomas herself.

The injuries to Miss Thomas were compound fracture of the lower third of the right leg, the bone protruding at the point of the fracture, and a compound comminuted fracture of the left thigh just above the kneejoint. In the latter case several pieces of bone were removed from a hole made in the back of the thigh for drainage. A fenestrated plaster cast was applied, and through this the wound was treated daily without removing the cast. The fracture of the right leg was reduced and a posterior fibial metal splint applied.

Miss Thomas was admitted to the hospital on the 27th of April, 1904, and discharged on the 23d of July. She suffered much pain, both from the injuries and from the daily dressings of the wound. The medical expense incurred by her to the present time for room rent in hospital, medical and surgical bills, splints, braces, nurses' and doctors' bills, amounted January 1, 1905, to \$1,283. At that date she was still under the doctor's care. She is improving in condition, and now walks with two crutches. Her right leg will be almost normal. Her left leg, on account of the loss of bone, is about 2½ inches shorter than the right, and has a false joint just above the knee, which permits the leg to bend in all directions and will not sustain any weight unless incased in a steel and leather brace. She will always be maimed, and the present indications are that she will be obliged to wear this brace all her life. She is unfit for clerical duty at the present time, and even if she were able to get about, which she can not at present, the shock and suffering and injury to her nerves will keep her unfit for clerical duty for some months to come. Her general health has suffered from her confinement in the hospital. All these facts relating to the medical history of the case have been furnished the Department by Dr. T. L. Macdonald, who has had charge of the surgical part of the case. Attached hereto is a rough sketch made by Doctor Macdonald, showing the nature of Miss Thomas's injuries.



At the time of the accident Miss Thomas was 45 years of age. She was considered an excellent clerk. She entered the service in 1883, and had been continuously in the public service for twenty-one years preceding the accident. Entering the service at \$900 a year, she had received a number of promotions, and at the time of the accident was receiving \$1,400 a year. Her general health was excellent, and her Department record bears out the testimony in this respect. This record shows that in the year 1900 she had no sick leave; in 1901, no sick leave; in 1902, no sick leave; in 1903, six and one-half days' sick leave.

Miss Thomas is entirely dependent upon her earnings for her support. She owns no property. In addition to taking care of herself she supports her mother entirely, and partially supports another relative. Since the accident Miss Thomas and those dependent upon her have been mainly supported by contributions voluntarily made by her fellow-clerks.

Should a proper bill for Miss Thomas's relief be introduced it would have my hearty support, and, pending the introduction of such a bill and its reference to this Department for recommendation, I call your attention to the joint resolution adopted by Congress in connection with the accident to the employees of the Record and Pension Office of the War Department who were injured by the falling of floors in the Ford's Theater building in 1893. This resolution will be found in the United States Statutes at Large, volume 28, page 577.

Respectfully,

L. M. SHAW.

Hon. E. J. BURKETT,  
House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, on page 6, after line 10, to insert:

For stationery for the Treasury Department and its several bureaus, fiscal year 1904, \$1,861.89.

The amendment was agreed to.

The next amendment was, on page 7, after line 22, to insert:

Repairs and preservation of public buildings: For repairs and preservation of public buildings and preservation of custom-houses, court-houses, and post-offices, and quarantine stations, buildings and wharf at Sitka, Alaska, and the other public buildings and the grounds thereof under the control of the Treasury Department, exclusive of marine hospitals, fiscal year ending June 30, 1904, \$1,976.

The amendment was agreed to.

The next amendment was, at the top of page 9, to strike out:

To defray the expenses of collecting the revenue from customs, being additional to the permanent appropriation for this purpose for the fiscal year ending June 30, 1906, \$3,000,000.

The amendment was agreed to.

The next amendment was, on page 9, after line 4, to strike out:

That section 3687 of the Revised Statutes of the United States is repealed to take effect from and after June 30, 1906; and the Secretary of the Treasury shall, for the fiscal year 1907, and annually thereafter, submit to Congress, in the regular Book of Estimates, detailed estimates of the expenses of collecting the revenue from customs.

Mr. GORMAN. Mr. President, I have no doubt that this provision of the bill is all right, but I should like to have some explanation why these lines which require the Secretary of the Treasury to submit annually to Congress a detailed statement in reference to the expense of collecting the revenue from customs are stricken out.

Mr. HALE. The proposition in the clause inserted by the House involves an entire change in the whole matter of the customs service, and makes obligatory the keeping of statements as to every person employed in that service. It is so radical a proposition that the Senate committee did not think we ought to agree to it, but that we should throw the matter into conference in order to have it explained and made more fully known to the conferees. It is too large a proposition to go through without further examination. That is the reason the Senate committee proposed to strike it out.

Mr. GORMAN. Every detail of the expenditures in regard to the collection of revenue is now kept in the Treasury Department. As I understand, this is in the direction of what the Senator from Maine and I in this body have always required—detailed estimates, so that Congress may know precisely what is being done, how the money is to be expended, and then appropriate for it. That is the general rule applying to nearly every other expenditure.

I submit to the Senator from Maine whether this is not a provision which upon its face seems to come within the right rule, and one, I think, which ought to be enforced more rigidly than it now is. I am very glad to see the proposition come here. It is a mere matter of bookkeeping, and the labor of preparing the statements that come to the Treasury Department monthly, it seems to me, ought not to involve a very great change in the system of bookkeeping.

Of course I have no desire to interfere with the Senator from Maine, who, I know, is very rigid in his views of requiring detailed accounts to be presented to Congress preceding the making of appropriations. If, however, the Senator from Maine

believes on examination that it will be prudent to have this matter go into conference I shall not object, but it strikes me on its face as being a very proper provision.

Mr. HALE. The committee thought that that course would be better. If in the next appropriation bill the Department present us in detail a scheme, then the Appropriations Committee can consider it; but there is so little time now to consider the questions presented that the committee thought it was not wise to agree to the provision, but that it was better to put it into conference and see if there is any perfected scheme proposed. It is not like an ordinary proposition. It involves thousands of employees, as the Senator knows, and the committee was not ready to adopt this until the Department had presented some detailed scheme covering the whole thing at large.

Mr. GORMAN. Trusting that the Senator from Maine, in charge of the bill, will secure some provision in conference looking to the inauguration of some proper scheme, I shall not object to the adoption of the amendment; but I want to say that the general idea contained in this clause is, in my opinion, in the right direction. The Senator will agree with me that in the last few years we have run into the system of gross appropriations in this matter. That has been done for a great many years, probably from the beginning. It is quite likely that some leeway should be allowed in this matter, but I trust the conference committee will bring us back a provision requiring detailed estimates in this case as well as in all others.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, on page 10, after line 11, to strike out:

For the fiscal year 1906, \$200,000.

The amendment was agreed to.

The next amendment was, on page 11, after line 20, to insert:

Relief of the heirs of George McGhehey: To enable the Secretary of the Treasury to carry out the provisions of the act for the relief of the heirs of George McGhehey for services rendered as mail contractor, approved February 8, 1905, \$137.39.

The amendment was agreed to.

The next amendment was, on page 12, after line 2, to insert:

Post-office, Annapolis, Md.: For grading, retaining wall, and miscellaneous work at the post-office at Annapolis, Md., as recited and recommended in House Documents Nos. 92 and 367, Fifty-eighth Congress, second session, \$3,000.

The amendment was agreed to.

The next amendment was, under the subhead "Internal revenue," on page 13, line 20, after the word "claims," to strike out "thirteen thousand seven hundred and forty-five dollars and forty-seven cents" and insert "fifteen thousand eight hundred and thirty-five dollars and ninety-six cents;" so as to make the clause read:

To pay amounts certified to be due by the accounting officers of the Treasury on account of the appropriation "Redemption of stamps" (certified claims), \$15,835.96.

The amendment was agreed to.

The next amendment was, on page 14, line 2, after the word "thousand," to strike out "two hundred and sixty-two dollars and twenty-seven cents" and insert "five hundred and sixty-eight dollars and fifty-three cents;" so as to make the clause read:

To pay amounts certified to be due by the accounting officers of the Treasury on account of the appropriation "Refunding taxes illegally collected" (certified claims), \$2,568.53.

The amendment was agreed to.

The next amendment was, under the subhead "Revenue-Cutter Service," on page 14, line 9, after the word "consumed," to strike out "\$57,106.83" and insert "\$84,137.10;" so as to make the clause read:

For amount necessary to meet expenses for extraordinary repairs to Bear, Woodbury, and Manning; and for increased cost of rations for crews, and for increase in quantity of fuel consumed, \$84,137.10.

The amendment was agreed to.

The next amendment was, on page 14, after line 16, to insert:

For thoroughly overhauling and repairing the United States steamship Thetis, to put the vessel in efficient condition for work in Bering Sea and the Arctic Ocean, \$30,000.

The amendment was agreed to.

The next amendment was, on page 14, after line 20, to insert:

To reimburse Pope & Talbot, agents for the owners of the American schooner Spokane, for expenses incurred in repairing damages sustained by that vessel in collision with the revenue steamer Bear, \$3,179.20.

The amendment was agreed to.

The next amendment was, at the top of page 15, to insert:

To reimburse the Harpswell Steamboat Company, of Portland, Me., for expenses incurred and for repairing damages sustained by its steamer Sebascodogan, in collision with revenue steamer Woodbury, \$2,016.25.

The amendment was agreed to.



The next amendment was, on page 15, after line 5, to insert:

To reimburse the George Hall Coal Company, of Ogdensburg, N. Y., for expenses incurred in repairing its wharf damaged by the revenue steamer Dallas, \$37.01.

The amendment was agreed to.

The next amendment was, under the subhead "Under the Smithsonian Institution," on page 16, after line 3, to insert:

For the payment of costs of defense in the action for damages brought against the superintendent of the National Zoological Park, District of Columbia, on account of alleged damages committed by an animal said to have been a wolf that had escaped from the park, \$250, or so much thereof as may be necessary, the same to be paid from the unexpended balance of the appropriation for National Zoological Park for the fiscal year ending June 30, 1905.

The amendment was agreed to.

The next amendment was, under the subhead "Mints and assay offices," on page 16, after line 20, to insert:

Parting and refining bullion: That the paragraph relating to parting and refining bullion, contained in the deficiency act of July 7, 1898 (30 U. S. Stat. L., p. 661), be amended to read as follows:

"And refining and parting of bullion shall be carried on at the coinage mints and the assay office at New York, and it shall be lawful to apply the money received in payment of charges for these operations and any surplus bullion recovered and the proceeds from the sale of spent acids and by-products resulting from these operations, so far as may be necessary, to defraying in full the expenses thereof, including labor, material, wastage, and loss on sale of refinery sweeps. "But no part of the moneys appropriated for the support of the coinage mints and assay office at New York shall be used to defray the expense of parting and refining bullion."

The amendment was agreed to.

The next amendment was, on page 17, after line 19, to insert:

Reimbursement of Frank A. Leach: For reimbursement of Frank A. Leach, superintendent of the mint at San Francisco, Cal., for amount of money paid into the Treasury of the United States, being the sum stolen from the cashier's vault by the chief clerk of the mint, \$25,000.

The amendment was agreed to.

#### JAMESTOWN TERCENTENNIAL EXPOSITION.

The PRESIDING OFFICER laid before the Senate the bill (H. R. 19203) to provide for celebrating the birth of the American nation, the first permanent settlement of English-speaking people on the Western Hemisphere, by the holding of an international naval, marine, and military celebration in the vicinity of Jamestown, on the waters of Hampton Roads, in the State of Virginia, to provide for a suitable and permanent commemoration of said event, to authorize an appropriation in aid thereof, and for other purposes, which was read twice by its title.

Mr. DANIEL. Mr. President, I ask unanimous consent for the present consideration of that bill.

The PRESIDING OFFICER. Does the Senator from Maine yield to the Senator from Virginia?

Mr. HALE. I will yield if the bill can be passed without debate. I do not object to that.

Mr. DANIEL. Mr. President, I beg leave to state that this bill has been favorably acted on—

Mr. HALE. If the Senator will allow a vote to be taken on the bill, I will agree; but otherwise I must object.

Mr. DANIEL. I was going to state that the bill has been favorably acted on by the Committee on Industrial Expositions, and I ask that a vote may be taken on it.

The PRESIDING OFFICER. The Senator from Virginia asks unanimous consent for the present consideration of the bill. Is there objection?

Mr. LODGE. Let the bill be read.

The Secretary proceeded to read the bill.

Mr. HALE. I find that this is an entirely different bill from what I supposed it to be. I object to it.

The PRESIDING OFFICER. Objection is made.

Mr. DANIEL. Then I ask that the bill may be referred to the Committee on Industrial Expositions.

The PRESIDING OFFICER. Without objection, the bill will be so referred.

#### DEFICIENCY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19150) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1905, and for prior years, and for other purposes.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the head of "District of Columbia," on page 20, after line 3, to insert:

Assessor's office: To enable the assessor of the District of Columbia to complete the assessments of real and personal taxes by the employment of temporary services, \$500.

The amendment was agreed to.

The next amendment was, on page 21, after line 11, to insert:

Office of the recorder of deeds: For reimbursing John C. Dancy, recorder of deeds of the District of Columbia, the amount paid by him to Leland Armistead for services rendered during the fiscal year ended

June 30, 1903, in assisting the janitor of said office in cleaning said office and the records therein, \$33.90.

The amendment was agreed to.

The next amendment was, on page 23, after line 4, to insert:

To reimburse Alice L. Riggs for moneys expended and obligations incurred by her in the partial construction of an automobile sales room and storage barn on lot 107, in square 210, under a permit issued by the Commissioners of the District of Columbia, said permit having been subsequently revoked by said Commissioners, \$1,004.96, or so much thereof as may be necessary, to be paid wholly from the revenues of the District of Columbia.

The amendment was agreed to.

The next amendment was, on page 23, after line 13, to insert:

To reimburse Lewis I. O'Neal, justice of the peace in and for the District of Columbia, for the loss, through robbery of the safe in his office, of certain moneys collected by him pursuant to law and belonging to the District of Columbia, the amount thereof having been subsequently paid to the District of Columbia from personal funds of the said O'Neal, \$140, to be paid wholly from the revenues of the District of Columbia.

The amendment was agreed to.

The next amendment was, on page 23, after line 21, to strike out:

And the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to make the necessary surveys, borings, test pits, plans, and estimates for the construction of a conduit (of the same general dimensions as the culvert across Rock Creek on the line of Massachusetts avenue extended) to carry the waters of Rock Creek from Lyons' mill, via Twenty-fifth street, if extended, to a point about 100 feet south of the south building line of O street northwest, and report the results, including estimates of the cost of constructing said conduit and the time within which the same can be completed, to the Fifty-ninth Congress within the month of December, 1905.

The amendment was agreed to.

The next amendment was, on page 27, line 24, after the word "twenty-four," to insert "and Senate Document Numbered —;" and on page 28, line 2, before the word "cents," to strike out "seventy-three dollars and forty-seven" and insert "four hundred and ninety-seven dollars and twelve;" so as to make the clause read:

Judgments: For payment of the judgments, including costs, against the District of Columbia, set forth in House Documents Nos. 287 and 324, and Senate Document No. —, of this session, \$12,497.12, together with a further sum to pay the interest, at not exceeding 4 per cent, on said judgments, as provided by law, from the date the same became due until the date of payment.

Mr. PLATT of Connecticut. I suggest that the blank in that amendment should be filled.

Mr. HALE. That will have to be put in. We have not the number of the document now; but it will be inserted in conference.

There are three or four words in the amendment at the top of page 28 that are repeated, and should be stricken out. I move to strike out "four hundred and" at the top of page 28.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 28, line 1, it is proposed to amend the amendment of the committee by striking out the words "four hundred and;" so as to make the clause read:

Judgments: For payment of the judgments, including costs, against the District of Columbia, set forth in House Documents Nos. 287 and 324 and Senate Document No. — of this session, \$12,497.12, together with a further sum to pay the interest, at not exceeding 4 per cent, on said judgments, as provided by law, from the date the same became due until the date of payment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 29, after line 17, to insert: Garfield Hospital: For additional amount required for isolating ward, Garfield Hospital, \$2,000.

The amendment was agreed to.

The next amendment was, on page 31, after line 4, to insert:

For payment of damages to private property caused by artillery target practice firing at Forts Heath and Banks, Mass., on June 9, 1904, as set forth on page 20 of House Document No. 287 of this session, \$417.55.

The amendment was agreed to.

The next amendment was, on page 33, after line 19, to insert:

State of Texas: The Secretary of War is hereby directed to inquire, and report to Congress for its consideration, what sum or sums of money were actually expended by the State of Texas during the period of time between February 28, 1855, and June 21, 1860, in payment of State volunteers or rangers called into service by authority of the governor of Texas, in defense of the frontier of that State against Mexican marauders and Indian depredations, for which reimbursement has not been made out of the Treasury of the United States.

The amendment was agreed to.

The next amendment was, on page 35, line 2, before the word "thousand," to strike out "one hundred and seventy-five" and insert "seven hundred;" so as to make the clause read:

For the fiscal year 1905, \$700,000, together with the further sum of \$350,000, to be paid out of the unexpended balance of the appropriation for "Regular supplies" for the fiscal year 1903, which is hereby reapportioned for said purpose.

The amendment was agreed to.

The next amendment was, at the top of page 36, to insert:

ENGINEER DEPARTMENT.

Survey for wagon road from Valdez to Fort Egbert, Alaska: For a survey and estimate of the cost of a wagon road from Valdez to Fort Egbert, on the Yukon River, to be made under the direction of the Secretary of War, \$5,700.63.

The amendment was agreed to.

The next amendment was, on page 36, after line 7, to insert:

Survey for military trail between Yukon River and Coldfoot, Alaska: For surveying and locating a military trail, under the direction of the Secretary of War, by the shortest and most practicable route, between the Yukon River and Coldfoot, on the Koyukuk River, to be immediately available, \$431.15.

The amendment was agreed to.

The next amendment was, on page 37, after line 4, to insert:

Miscellaneous items and incidental expenses: For the printing by the Public Printer of 6,000 copies of the Jubilee Centennial History of the United States Military Academy, 1,000 of which shall be for the use of the Senate and 2,000 for the use of the House of Representatives, and the balance to be distributed by the Superintendent of the United States Military Academy, under the direction of the Secretary of War, or so much thereof as may be necessary, \$3,230.

The amendment was agreed to.

The next amendment was, under the head of "Buildings and grounds in and around Washington," on page 39, after line 21, to insert:

Sherman statue: To pay for the collection of materials, preparation, editing, proof reading, and supervision through the press of the volume (Senate Document No. 320) authorized by concurrent resolution of Congress, No. 57, Fifty-eighth Congress, second session, entitled "Sherman, a Memorial in Art, Oratory, and Literature, by the Society of the Army of the Tennessee, with the aid of the Congress of the United States," said amount to be disbursed by the engineer in charge of public buildings and grounds, \$700.

The amendment was agreed to.

The next amendment was, on page 41, after line 3, to insert:

MISCELLANEOUS, NAVY.

To reimburse the American Society in London the amount advanced by said organization to enable a deserter from the United States Navy to return to his ship, being for the fiscal year 1905, \$20.07.

The amendment was agreed to.

The next amendment was, on page 41, after line 9, to insert:

To pay Martha A. Hughes, widow of Edward M. Hughes, late commander, United States Navy, amount due the late Commander Hughes for the difference between mileage and expenses allowed and that that should have been allowed, \$166.03.

The amendment was agreed to.

The next amendment was, on page 51, line 19, to increase the appropriation for maintenance, yards and docks, from \$50,000 to \$65,000.

The amendment was agreed to.

The next amendment was, on page 53, after line 22, to insert:

BUREAU OF CONSTRUCTION AND REPAIR.

Construction and repair: To pay bill of the Pacific Coast Company, of Seattle, Wash., for coal and charcoal delivered at the navy-yard, Puget Sound, Washington, in July, 1902, under written contract No. 7953, dated June 24, 1901, voucher for payment of the same having not been received by the Paymaster-General for approval and payment until after the lapse to the surplus fund of the unexpended balance remaining in the appropriation chargeable, being for the fiscal year 1902 (submitted), \$1,171.31.

The amendment was agreed to.

The next amendment was, at the top of page 55, to insert:

MISCELLANEOUS, NAVY.

To reimburse the enlisted men of the Navy whose bedding or clothing was destroyed in fires on board the Olympia, the Alliance, and the Pontiac, \$278.17.

The amendment was agreed to.

The next amendment was, on page 55, after line 5, to insert:

To reimburse the enlisted men of the Navy whose blankets were rendered unserviceable on board the U. S. S. Missouri, in rescuing bodies after an explosion, \$55.68.

The amendment was agreed to.

The next amendment was, under the head of "Department of the Interior," on page 56, after line 1, to strike out:

Pension Office: For private secretary, to be selected and appointed by the Commissioner of Pensions, at the rate of \$2,000 per annum from March 4, 1905, to June 30, 1906, both inclusive, \$2,050.

Mr. MALLORY. I should like to inquire as to why it is proposed to strike out this clause?

Mr. HALE. It is the only case in which the head of a bureau has a private secretary. Some clerk is always detailed for that purpose and performs the duties. The committee did not think we ought to embark in a new policy of giving heads of bureaus private secretaries, and therefore it is proposed to be stricken out.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 56, after line 7, to strike out:

Indian Office: For the following for the fiscal year ending June 30, 1906, namely: Six copyists, at \$900 each, employed and paid from funds appropriated by act of February 9, 1900, and act of March 3,

1901; for three copyists, at \$1,000 each, and for two copyists, at \$900 each, paid from the tribal funds of the Choctaw and Chickasaw nations, act of April 21, 1904; in all, \$10,200.

Mr. PLATT of Connecticut. Will the Senator in charge of the bill explain why it is that this provision about the Indian Office is proposed to be stricken out? It seems to provide for copyists and other clerks in pursuance of acts of Congress heretofore passed.

Mr. HALE. The clerks provided for here are employed under the fund referred to. If that is continued, they will be employed. That fund is exhausted, and the work has ceased, and the committee believe the clerks ought not to be employed. The provision was brought before the committee on the legislative bill, and the committee declined to put them on.

Mr. PLATT of Connecticut. The act of February 9, 1900, of March 3, 1901, and the act of April 21, 1904, seem to provide for the employment of these clerks, to be paid out of the funds of the Choctaw and Chickasaw nations.

Mr. HALE. If we put them in here, they become permanent. That is the trouble. We do not object to their employing them under the fund, if the work continues, but we do not want to put them on the permanent roll.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the Committee on Appropriations.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 63, after line 21, to insert:

For reimbursement in part of expenses incurred and paid for by W. N. Brown, topographer and chief of party in the United States Geological Survey at Calro, W. Va., in connection with the disposal of the body of George Seidel, field assistant, who died suddenly in camp of dysentery, directly due to heat stroke resulting from the work he was performing for the Government, \$62.30.

The amendment was agreed to.

JAMESTOWN TERCENTENNIAL EXPOSITION.

Mr. DANIEL. By the courtesy of the Senator from Maine—

The PRESIDING OFFICER. Does the Senator from Maine yield to the Senator from Virginia?

Mr. HALE. Yes.

Mr. DANIEL. I wish to call up the bill (H. R. 19203) to provide for celebrating the birth of the American nation, the first permanent settlement of English-speaking people on the Western Hemisphere, by the holding of an international naval, marine, and military celebration in the vicinity of Jamestown, on the waters of Hampton Roads in the State of Virginia; to provide for a suitable and permanent commemoration of said event and to authorize an appropriation in aid thereof, and for other purposes.

Mr. HALE. I am entirely willing that the bill shall be passed if it gives rise to no debate.

Mr. DANIEL. I ask unanimous consent for the present consideration of the bill.

The PRESIDING OFFICER. The Senator from Virginia asks unanimous consent for the consideration of a bill, which will be read.

The bill was read the second time at length, as follows:

Whereas it is desirable to commemorate in a fitting and appropriate manner the birth of the American nation, the first permanent settlement of English-speaking people on the American continent, made at Jamestown, Va., on the 13th day of May, 1607, in order that the great events of American history which have resulted therefrom may be accentuated to the present and future generations of American citizens; and

Whereas that section of the Commonwealth of Virginia where the first permanent settlement was made is conspicuous in the history of the American nation by reason of the vital and momentous events which have there taken place in the Colonial, Revolutionary, and civil war eras of the nation, including not only the first permanent settlement of English-speaking people, but also the scene of the capitulation of Lord Cornwallis at Yorktown, and the scene of the first naval conflict between armor-clad vessels, the Monitor and Merrimac: Therefore

Be it enacted, etc., That there shall be inaugurated in the year 1907, on and near the waters of Hampton Roads, in the State of Virginia, as herein provided, an international naval, marine, and military celebration, beginning May 13 and ending not later than November 1, 1907.

Sec. 2. In furtherance of the object set forth in section 1 of this act, there is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be available until expended, the sum of \$250,000, to be expended under rules and regulations to be prescribed by the Secretary of the Treasury and upon vouchers to be approved by him and apportioned as follows: Fifty thousand dollars for the expenditures which shall be made by the commission hereinafter created and not herein specifically provided for, in preparing for and conducting said celebration, including the expenses of said commission; \$125,000 for the official entertainment of foreign military and naval representatives, of which amount \$100,000 shall be expended by the commander in chief of the North Atlantic fleet, under the supervision of the Secretary of the Navy, and \$25,000 thereof by the Chief of Staff of the Army, under the supervision of the Secretary of War; \$50,000 for a permanent monument upon the place of the first permanent English settlement at Jamestown, Va., and in commemoration thereof, the site and design to be selected by the commission hereinafter named, subject to the approval of the President: *Provided*, That the site be donated to the United States by proper deed; \$15,000 for permanent moorings for the use of vessels participating in said celebration at



Hampton Roads, subject to the approval of the Secretary of the Navy; \$10,000 for exhibiting on the scene of the engagement between the Monitor and Merrimac one or more of the old monitors of that period in order to illustrate the progress of naval construction.

Sec. 3. The President of the United States is hereby authorized to make proclamation of said celebration setting forth the event to be commemorated, inviting foreign nations to participate by the sending of their naval vessels and such representation of their military organizations as may be practicable, and to have such portions of our Army and Navy assembled there during the said celebration as may be compatible with the public service. And the President is also authorized to invite participation in said celebration by the militia of the several States, but at their own expense.

Sec. 4. And the President of the United States is hereby authorized to constitute a Commission, to consist of the Secretary of the Treasury, the Secretary of War, and the Secretary of the Navy, to be known as the "Jamestown Ter-Centennial Commission." The said Commission shall have full power and authority to do any and all things by this act required to be done for the carrying on of said celebration, including the detail of such persons as may be necessary for clerical and other services in connection with the work of said Commission from the Departments of which they are respectively at the head and not in terms expressly intrusted to others, and all things necessary to the appropriate inauguration and successful holding of said celebration, whether herein expressly enumerated or not: *Provided, however*, That said Commission shall do no act which will require any expenditure of money in excess of the sums herein appropriated, and should it transcend this limitation the Government of the United States will not be bound by its acts.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. HALE. I suggest to the Senator from Virginia that he had better move to strike out the preamble.

Mr. DANIEL. Then the bill would have to go back to the House for amendment. The preamble will do no harm.

Mr. PLATT of Connecticut. Mr. President, I do not make any objection to the consideration of the bill, but I should like to have it stated here whether this is the beginning of appropriations for this exposition, or whether it is the end of them. We have had such experience with beginning appropriations and then going on and making very large appropriations afterwards that I wish to know what is the intention of this bill—whether this is all the appropriation we shall be called upon to make, or whether it is a beginning, with millions or hundreds of thousands of dollars to follow.

Mr. DANIEL. Mr. President, I know of nothing more than what is contemplated in the bill. It does not seem to me to become a Senator, who is here to-day and gone to-morrow, to pledge either his people or his State as to a time when he may not represent them. All I know about it is in the bill, and it has passed the other body by two-thirds majority.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

#### GENERAL DEFICIENCY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19150) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1904, and for prior years, and for other purposes.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "Post-Office Department," on page 72, after line 20, to insert:

To pay to Edward G. Edgerton, postmaster at Yankton, S. Dak., in full for difference in compensation he was obliged to pay over and above the regular contract price with Simon Price, who had resigned, to Thomas Rogers, for carrying the mails on mail messenger route No. 259053, Yankton, S. Dak., between July 18 and 31, 1904, pending the letting of a new contract for service on said route, \$22.76.

The amendment was agreed to.

The next amendment was, under the head of "United States courts," on page 78, line 4, after the word "day," to strike out:

If any circuit or district judge shall falsely certify to the amount actually expended by himself for attendance and travel when holding court outside of his district or upon the circuit court of appeals he shall, upon conviction, be fined not less than \$100 or imprisoned not less than ten days.

And in line 13, after the word "dollars," to strike out:

*Provided*, That no part of the sum hereby appropriated shall be paid to any judge for expenses in excess of \$5 per day unless he shall first have made, under oath or affirmation, a statement showing in detail the expenses incurred and paid by him.

So as to make the clause read:

For pay of bailiffs and criers, not exceeding three bailiffs and one crier in each court, except in the southern district of New York: *Provided*, That all persons employed under section 715 of the Revised Statutes shall be deemed to be in actual attendance when they attend upon the order of the courts: *Provided further*, That no such person shall be employed during vacation; of reasonable expenses for travel and attendance of district judges directed to hold court outside of their districts, not to exceed \$10 per day each, to be paid on written certificates of the judges, and such payments shall be allowed the marshal in the settlement of his accounts with the United States; expenses of judges of the circuit courts of appeals, not to exceed \$10 per day; of meals and lodgings for jurors in United States cases, and of bailiffs in attendance upon the same, when ordered by the court, and of compensation for jury commissioners, \$5 per day, not exceeding three days for any one term of court, \$35,000.

Mr. MALLORY. I should like to inquire whether we did not to-day amend the sundry civil bill in respect to this particular matter by the insertion of the word "actual," so as to allow the judge \$10 a day for reasonable expenses in traveling and attendance when actually expended?

Mr. HALE. One of the reasons why it is stricken out here is that we may see what the sundry civil bill does.

Mr. MALLORY. I can not hear what the Senator from Maine says.

Mr. HALE. I said that is one of the reasons why it is stricken out here. We want to see in conference what the sundry civil bill has done about it. It only needs to be upon one bill; therefore it is proposed to strike it out here. That will throw it all into conference.

Mr. MALLORY. I hope it will be allowed to remain as it was fixed in the sundry civil bill to-day.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the Committee on Appropriations.

The amendment was agreed to.

The next amendment was, on page 80, after line 2, to insert:

United States Penitentiary, Leavenworth, Kans.: For the support of the United States Penitentiary at Fort Leavenworth, Kans., as follows: For expenses incurred in identifying and pursuing escaped prisoners and for rewards for their recapture, for the fiscal year 1904, \$37.16.

The amendment was agreed to.

The next amendment was, on page 80, after line 8, to insert:

Spanish Treaty Claims Commission: For salaries and expenses, Spanish Treaty Claims Commission, namely: For expenses of taking testimony abroad, to be available until used, \$25,000; and said Commission may expend not exceeding \$200 for the purchase of law books, maps, and books of reference.

The amendment was agreed to.

The next amendment was, on page 80, after line 14, to insert:

To pay the award in favor of the personal representative of Gaspar A. Betancourt \$10,000, at the end of sixty days from the date of said award if no new trial or rehearing shall have been had.

The amendment was agreed to.

The next amendment was, under the head of "Department of Agriculture," on page 81, line 10, after the word "dollars," to insert "of which amount not exceeding \$150 may be used for the purchase of law books;" so as to make the clause read:

Protection of forest reserves: To meet a deficiency in the appropriation for forest reserves, including the objects mentioned and limitations and restrictions mentioned under this title of appropriation in the sundry civil appropriation act for the fiscal year 1905, \$50,000, of which amount not exceeding \$150 may be used for the purchase of law books.

The amendment was agreed to.

The next amendment was, on page 81, after line 11, to insert:

To pay the account of William H. Lacy for material and labor used and employed in April, 1904, in plastering rooms in the building known as 1362 B street SW., Washington, D. C., occupied as a laboratory by the Bureau of Animal Industry, under a lease duly made and executed, being for the fiscal year 1904, \$200.

The amendment was agreed to.

The next amendment was, under the head of "Department of Commerce and Labor," on page 84, after line 22, to insert:

To pay the Atlantic Transport Company, Baltimore, Md., the cost of repairs to its barge 1, made necessary on account of damage to that barge by the light-house tender Holly colliding with the barge on October 9, 1903, while the barge was loading at its wharf, \$28.64.

The amendment was agreed to.

The next amendment was, on page 87, after line 9, to insert:

The Secretary of the Department of Commerce and Labor is hereby authorized to pay, out of the existing appropriation for the enforcement of the Chinese-exclusion laws, to the Canadian Pacific Railway Company the sum of \$16,698.30, for reimbursement of cost of maintenance of alleged native-born Chinese in the years 1903 and 1904 for the period during which, by order of the courts under habeas corpus proceedings, said Chinese were detained in the detention station at Malone, N. Y., until said Chinese were delivered to said company for deportation to China.

The next amendment was, under the head of "Legislative," on page 88, after line 20, to insert:

#### SENATE.

To pay the heirs at law of Hon. George F. Hoar, late a Senator from the State of Massachusetts, \$5,000.

The amendment was agreed to.

The next amendment was, on page 88, after line 24, to insert:

To pay the widow of Hon. Matthew S. Quay, late a Senator from the State of Pennsylvania, \$5,000.

The amendment was agreed to.

The next amendment was, at the top of page 89, to insert:

For compensation of the officers, clerks, messengers, and others in the service of the Senate, namely:

For five annual clerks to Senators who are not chairmen of committees, at \$1,500 each, \$2,437.50; for sixteen pages for the Senate Chamber at the rate of \$2.50 per day each during the session, from March 4 to March 31, 1905, \$1,120.

The amendment was agreed to.

The next amendment was, on page 89, after line 10, to insert:

For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding \$1.25 per printed page, \$20,000.

The amendment was agreed to.

The next amendment was, on page 89, after line 18, to insert:

For miscellaneous items, exclusive of labor, \$40,000.

The amendment was agreed to.

The next amendment was, on page 89, after line 18, to insert:

For repairs of Maltby Building, \$500.

The amendment was agreed to.

The next amendment was, on page 89, after line 19, to insert:

That the Secretary of the Senate be, and he hereby is, authorized to pay to Charles C. Long, clerk to Hon. PHILANDER C. KNOX, of Pennsylvania, from July 1 to December 5, 1904, for clerical services rendered, from the appropriations for salaries of officers, clerks, messengers, and others in the service of the Senate for the fiscal year 1905.

The amendment was agreed to.

The next amendment was, on page 90, after line 2, to insert:

To enable the Secretary of the Senate to pay C. E. Richardson for extra services rendered in the office of the Secretary of the Senate, \$150.

The amendment was agreed to.

The next amendment was, on page 90, after line 5, to insert:

To reimburse the official reporters of the proceedings and debates of the Senate for expenses incurred from March 4, 1904, to March 4, 1905, for clerk hire and other extra clerical services, \$4,740.

The amendment was agreed to.

The next amendment was, on page 90, after line 10, to insert:

To pay J. H. Jones for extra services in the care of the Senate chronometer, and for the work in connection therewith, \$100 for the third session of the Fifty-eighth Congress.

The amendment was agreed to.

The next amendment was, on page 90, after line 14, to insert:

To pay Ormsby McHarg for indexing and for extra services as clerk to the Committee on Pensions, \$750.

The amendment was agreed to.

The next amendment was, on page 90, after line 17, to insert:

To pay Dennis M. Kerr for services as assistant clerk, by detail to the Committee on Pensions, \$750.

The amendment was agreed to.

The next amendment was, on page 90, after line 20, to insert:

To pay William B. Turner for preparing index to the report of Robert C. Morris, agent of the United States before the United States and Venezuelan Claims Commission, \$250.

The amendment was agreed to.

The next amendment was, on page 90, line 24, to insert:

To defray the expenses of the members of the joint committee of the Senate and House authorized to attend and represent the Congress of the United States on the occasion of the formal opening ceremonies of the Lewis and Clark Centennial Exposition and Oriental Fair, to be held at Portland, Oreg., June 1, 1905, \$10,000, or so much thereof as may be necessary, of which sum \$4,000 shall be accredited to the Senate, to be expended under the direction and by the order of the Sergeant-at-Arms of the Senate, and \$6,000 accredited to the account of and expended under the direction and by the order of the Sergeant-at-Arms of the House of Representatives, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate, and by the Committee on Accounts of the House, respectively.

Mr. HANSBROUGH. I call the attention of the Senator from Maine to the amount carried in the amendment. It should be increased to \$25,000, \$10,000 for the Senate and \$15,000 for the House.

Mr. HALE. The Senator knows much more than I do about that. I do not object. I do not think either sum would be large enough.

Mr. HANSBROUGH. On page 91, line 5, I move to strike out "ten" before "thousand" and insert "twenty-five;" in line 7, to strike out "four" before "thousand" and insert "ten," and in line 9, to strike out the word "six" before "thousand" and insert "fifteen."

Mr. HALE. That will lessen the deficiency which will come in afterwards.

Mr. BAILEY. Mr. President, I am not willing to see the Senate provide an expensive trip for its members by a kind of unanimous consent. I want an opportunity to vote against the amendment to the amendment. I may not be able to defeat it, but I want the satisfaction of voting against it.

The PRESIDING OFFICER. The Senator from Texas will have that opportunity when the Chair puts the question on agreeing to the amendment to the amendment.

Mr. HANSBROUGH. I do not suppose any argument I might make in behalf of my amendment, after the statement made by the Senator from Texas, will change his mind.

Mr. BAILEY. And I do not think any argument I might make will change the vote either; but at the same time, for the Senate to vote \$10,000 for a committee of ten Senators to at-

tend this exposition seems to me an unwarranted extravagance. If they go at all, they ought to go—

Mr. PLATT of Connecticut. May I inquire how many Senators are to go on this trip?

Mr. BAILEY. Ten thousand dollars would carry the whole Senate.

Mr. HANSBROUGH. I was about to state that the Senate has already provided for ten members of this committee and the House has provided for fifteen members.

Mr. BAILEY. A thousand dollars per capita is a little more than either the House or the Senate ought to authorize its members to spend upon a trip that ought to represent the Government in a modest and proper way.

Mr. HALE. The Senator ought to bear in mind that money goes a very little way on the Pacific coast.

Mr. BAILEY. Well, Senators ought not to go very far on the Pacific coast.

Mr. HANSBROUGH. The Senator from Texas will observe that this is to be a trip clear across the continent.

Mr. BAILEY. I wish to suggest that if the Senate is advertising to the people of the East and other sections that it costs a thousand dollars per capita to attend this exposition in Oregon, the attendance is apt to be very light. I think they had better not set that example before the country.

Mr. HALE. Has the Senator from North Dakota succeeded in securing enough Senators to agree to go on this trip?

Mr. HANSBROUGH. I have talked with all the Senators named on the committee and all but one have assured me that they would go.

Mr. HALE. I should hate to see this enterprise collapse from any lack of interest on the part of the Senate.

Mr. HANSBROUGH. I do not think there will be any lack of interest in this case.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Dakota to the amendment of the committee. [Putting the question.] The yeas appear to have it.

Mr. HANSBROUGH. I think I shall be obliged to call for the yeas and nays on this question. If it is the sense of the Senate that it ought not to have a sufficient amount of money to carry out this enterprise, I think we had better abandon the whole trip. I think the Sergeant-at-Arms can be safely intrusted with the expenditure of this amount.

Mr. PLATT of Connecticut. To abandon it would be excellent.

Mr. DIETRICH. I believe the exposition would be just as great a success if they do abandon it.

Mr. HANSBROUGH. The two Houses have thought otherwise by passing a concurrent resolution providing for this committee.

Mr. FULTON. Mr. President, the House and the Senate have concurred in the resolution accepting the invitation to be represented at the opening exercises of the exposition. It is to be an exposition commemorating one of the great historic events in the country. It has been the custom of Congress to be represented on such occasions. It was represented at St. Louis on at least two occasions, and liberal appropriations were made. I do not remember the amounts, but I do remember that special trains were taken by the committees and that they went in a manner which comported with a committee representing the Congress of the United States. The trip they will have to make in order to be present on this occasion will be a long one, and necessarily it will be more expensive.

I submit, Mr. President, it is due to the people of the Pacific coast that Congress should be represented there, and it is due to Congress and the people of this country that it shall be properly represented. I hope the Senate will not object to the amendment offered by the Senator from North Dakota. It has been the practice of Congress in the past to send a representation at the opening of all such expositions and to make an appropriation for the purpose.

I do not myself pretend to know what the expense will be, but those who have been appealed to, who have had charge of such matters in the past, tell us that this amount is necessary, and that without this amount it can not be undertaken. Of course if it shall not cost the amount proposed, it will not be expended. I submit that it is due to Congress and it is due to the people of the Pacific coast that this recognition shall be given.

I shall not take up the time of the Senate in discussing the question.

Mr. PLATT of Connecticut. Mr. President, I do not offer any amendment, but I wish to suggest that perhaps an amendment might be offered in the way of a compromise by applying to Senators the same rule we have been applying to judges; that is, that they shall certify their reasonable expenses.



Mr. LODGE. Their actual expenses.

Mr. PLATT of Connecticut. Their actual reasonable expenses.

Mr. BAILEY. I will agree to that if you will impeach them if they take more than they spend. [Laughter and applause in the galleries.]

The PRESIDING OFFICER. Applause is not allowed in the galleries of the Senate of the United States.

Mr. FULTON. I will consent to that proposition if the Senator from Texas and the Senator from Connecticut will agree to go on the committee.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from North Dakota to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 6944. An act to authorize the resurvey of certain lands in the State of Wyoming;

S. 7230. An act granting an increase of pension to Benton Cartwell; and

S. 7284. An act to authorize the Secretary of the Treasury to exchange the site for a public building at Natchitoches, La.

The message also announced that the House had passed with an amendment the bill (S. 5108) to amend the act for the prevention of smoke in the District of Columbia, and for other purpose, approved February 2, 1899; in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 11802) for the relief of Adolph Spiegel, as the successor of the firm of Spiegel, Finkelstein & Co.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 4938) for the use of electric wires in the District of Columbia.

#### DEFICIENCY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19150) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1905, and for prior years, and for other purposes.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, on page 91, after line 15, to insert:

To enable the Committee on Claims to prepare a record and index of private claims introduced in the Senate during the Fifty-eighth Congress, \$1,200, or so much thereof as may be necessary, to be paid upon vouchers approved by the chairman of the committee; and said sum or any part thereof, in the discretion of the chairman, may be paid as additional compensation to any officer or employee of the United States, this amount to continue available during the fiscal year 1906. Said work shall be completed and reported to the Senate on the first day of the first regular session of the Fifty-ninth Congress, and the usual number of copies shall be printed ready for distribution on said date.

The amendment was agreed to.

Mr. HALE. After line 3 on page 92 I move to insert:

That so much of the sum appropriated by the act approved April 28, 1904, to defray the expenses of the Commission created by that act remaining unexpended may be expended by said Commission, under the direction of the chairman of said Commission, for further investigation of the matters for which said act provided; and no expenditure beyond said unexpended balance shall be made; and the Commission is hereby revived and continued until the beginning of the next session of Congress.

Mr. SPOONER. May I inquire of the Senator having the bill in charge what that Commission is?

Mr. HALE. It is the Joint Commission on investigation.

Mr. GORMAN. What Commission is it?

Mr. HALE. The Joint Commission on our navigation interests.

The amendment was agreed to.

The next paragraph of the bill on page 92, beginning with line 4, was read, as follows:

To enable the Secretary of the Senate and the Clerk of the House of Representatives to pay to the officers and employees of the Senate and House borne on the annual and session rolls on the 31st day of January, 1905, including the Capitol police, the Official Reporters of the Senate and House, and W. A. Smith, CONGRESSIONAL RECORD clerk, for extra services during the third session of the Fifty-eighth Congress, a sum equal to one month's pay at the compensation then paid them by law, the same to be immediately available.

Mr. HALE. I offer a formal amendment. I move, in line 8, page 92, to strike out the words "31st day of January" and to insert "the 1st day of February."

The amendment was agreed to.

The next amendment was, under the subhead of "House of Representatives," on page 93, after line 9, to strike out:

To pay the mileage due Senators, Members, and Delegates for attendance upon the second session of the Fifty-eighth Congress, \$190,000.

Mr. GORMAN. I should like to inquire of the Senator who has charge of the bill in regard to the amendment on page 93. Is that provision as it comes to the Senate a provision to pay mileage for the last session, when we went from one session into another without a moment's delay?

Mr. SPOONER. This is a case of constructive mileage.

Mr. HALE. I am glad the Senator from Maryland has called attention to this provision which the Senate committee has struck out. It is the provision incorporated in the bill by the House for the extra mileage for a constructive session. The Senate, upon investigation by the law committee of this body, has taken its stand very squarely upon the proposition that as there was no space of time between the two sessions there was no recess. The Senator from Wisconsin [Mr. SPOONER], in a very able paper, has elaborated that subject and the Senate has adopted it. In accordance with that proposition the committee representing this body has struck out the claim for extra mileage.

It is not contended that any Senator or Member traveled over the road. It is not contended that there was any space of time between the two sessions. The one session merged in the other as one day merges in the succeeding day. There can possibly be nothing between the two, and based upon that proposition the committee has reported against the provision and has struck it out of the bill. I hope the Senate will sustain it.

Mr. BAILEY. Mr. President, I not only hope the Senate will sustain the committee, but I hope the conferees will then sustain the Senate. There can be no doubt that every Senator and Member has been paid one mileage for one trip, and the proposition to take another mileage is simply a proposition to pay for a trip that nobody took. A constructive claim for mileage might have been tolerated as long as there was a constructive claim of a recess, but that having been rejected by the Senate the other must fall with it.

Mr. HALE. Well, that is the theory of the committee.

The amendment was agreed to.

The next amendment was, on page 95, line 15, after the word "March," to strike out "fourth" and insert "third;" so as to make the clause read:

To continue employment of the janitor in the document room from March 3 to June 30, 1905, both inclusive, at the rate of \$60 per month, \$234.

The amendment was agreed to.

The next amendment was, on page 96, line 1, after the word "March," to strike out "fourth" and insert "third;" so as to make the clause read:

For assistant clerk to the Committee on Rivers and Harbors from March 3 to June 30, 1905, both inclusive, at the rate of \$1,400 per annum, \$455.

The amendment was agreed to.

The next amendment was, on page 97, line 3, after the word "March," to strike out "fourth" and insert "third;" so as to make the clause read:

To continue employment of the janitor in the document room from March 3 to June 30, 1905, both inclusive, at the rate of \$60 per month, \$234.

The amendment was agreed to.

The next amendment was, under the heading "Printing and binding," on page 99, line 6, after the sentence—

For printing and binding for the State Department, to be executed by the Public Printer, \$5,000.

To strike out the following proviso:

Provided, That of the document entitled "The Declaration of Independence" the Public Printer shall deliver to the Senate 540 copies and to the House of Representatives 1,170 copies for distribution, and the residue of the present editions of said document shall be delivered to the superintendent of public documents for sale to the public, and no further copies of said document shall be printed unless expressly authorized by Congress, and no money shall be paid to any person for the preparation of said book.

The amendment was agreed to.

The next amendment was, on page 99, after line 21, to strike out:

That the Committee on Printing of the Senate, with three Members of the present House of Representatives who are reelected to the next Congress, to be appointed by the Speaker of the present House of Representatives, shall constitute a commission, and they or any subcommittee of said special joint commission are hereby authorized to examine into the numbers printed of the various documents, reports, bills, and other papers published by order of Congress, or of either

House thereof, and of the CONGRESSIONAL RECORD, and if, in their judgment, the conditions as they find them warrant remedial legislation to report a bill at the next session of Congress making such reductions in the numbers and cost of printing and such changes and reduction in the distribution of said publications as they may deem expedient, with a report giving their reasons therefor; and that the said commission is also authorized to investigate the printing and binding for the Executive Departments executed at the Government Printing Office and at the branch printing offices and binderies in the various Departments, and if, in their judgment, the conditions as they find them warrant remedial legislation, to report a bill at the next session of Congress, making such reductions in expenses and imposing such checks as they may deem expedient, with a report giving their reasons therefor; and said commission is further authorized to make any other investigations calculated, in their opinion, to reduce the cost of the public printing, and report the result thereof; and in making the inquiries required by this resolution said commission shall have power to send for persons and papers, to administer oaths, to employ a stenographer to report its hearings, to call on the heads of Executive Departments and the Public Printer for such information in regard to the preceding matters as they may desire, to do whatever is necessary for a thorough investigation of the subject, and to sit during the recess of Congress. Any subcommittee may exercise the powers hereby granted to said commission, and the expenses of said investigation shall be paid one-half from the contingent fund of the Senate upon vouchers duly approved by the chairman of the Committee on Printing and one-half from the contingent fund of the House of Representatives.

Mr. PLATT of Connecticut. If I thought the object of the committee in striking out this provision was to prevent some proper investigation of the amount expended in the Government Printing Office for the printing of documents and books, I should be opposed to striking it out. If, on the other hand, it is stricken out in order to put it into conference and to ascertain the best method of getting at such a conclusion, I have no objection to the amendment, as we certainly ought to give attention to the great expenses incurred in the Government Printing Office, by direction of Congress generally, and see if there is not some way to remedy it.

I believe, Mr. President, that there are two or three million dollars absolutely wasted by the Government for printing in the Government Printing Office. I think that is the feeling of the entire Senate; and I should like to inquire upon what principle the committee proposes to strike this out—whether it is for the purpose of examining it and providing a better method than is provided in the House provision, or whether it is in hostility to the object?

Mr. HALE. The Senator from Connecticut has struck at the whole heart of the matter. Not only is the Appropriations Committee not hostile to this investigation, but it welcomes it. The Senator from Connecticut is right. The subject ought to be looked into by a competent committee or commission, so that hundreds of thousands of dollars may be saved which is now spent upon useless printing. The project is, however, so large, there was so little time for examination before reporting the bill, and the Senate Committee on Printing having already submitted a proposition of its own in the matter, with a view of perfecting, if necessary, this provision, the committee has struck it out, so that it may be brought into conference in connection with the bill reported by the Committee on Printing in this body.

I do not know of anybody who does not welcome this investigation. It is high time that a halt should be called upon the extravagant expenditures for printing. Every Department and every bureau, or many bureaus of many Departments, are exceeding what are the wants of the public service. A good commission, taking this subject in charge under proper provisions, can report a remedial measure to Congress that will, to some extent at any rate, cure the evils which now exist.

I can assure the Senator from Connecticut and the Senate that the committee is wholly in favor of that. In my experience in this body at one time, while I served as chairman of the Committee on Printing, I favored stopping the extravagant expenditures for public printing, and the Senator from Maryland [Mr. GORMAN] has done the same. I think he will agree with me that the time has come for something to be done in that direction.

Mr. GORMAN. I trust the Senator from Maine in charge of this bill will agree to retain the provision as it came from the other House. I want to say to him that I have very carefully read over the provisions in this bill, and I think it is in exact accord with the joint resolution which passed this body some days ago, which I think was prepared after consultation with the Public Printer and the members of the Joint Committee on Printing of both Houses; and the Senator will observe that in this instance the cost of the investigation will be comparatively trifling, and that it is to be paid by both branches of Congress. I do not believe, after consultation among those of us who have been looking into the question, that the House provision can be improved. I do not think there ought to be any doubt about an investigation, and the Senator from

Maine knows, as well as I do, that recently, on account of the changes in the Departments and the creation of new ones, the cost of printing is likely to increase.

So, Mr. President, I repeat that after careful consideration I can think of nothing to be gained by putting this matter into conference. I trust, therefore, that the Senator from Maine will permit this amendment to be disagreed to by the Senate and let the provision stand.

Mr. HALE. I am entirely willing to accept the suggestion of the Senator from Maryland, he having examined the matter and having had long experience in regard to it. I withdraw the amendment, Mr. President.

The PRESIDING OFFICER. In the absence of objection, the amendment will be disagreed to. It is disagreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "Judgments, Court of Claims," on page 101, line 22, after the word "seventy-seven," to insert "and Senate Document Numbered —;" so as to read:

For the payment of judgments rendered by the Court of Claims, reported to Congress at its present session in House Document No. 277 and Senate Document No. —, namely.

The amendment was agreed to.

The next amendment was, on page 101, line 24, after the words "Public Printer," to strike out "\$810.75" and insert "\$15,087.20;" so as to make the clause read:

Under the Public Printer, \$15,087.20.

The amendment was agreed to.

The next amendment was, on page 102, after line 2, to insert:

Under the Treasury Department, \$6,621.95.

The amendment was agreed to.

The next amendment was, on page 102, line 5, after the words "War Department," to strike out "\$152,117.25" and insert "\$215,175.25;" so as to make the clause read:

Under the War Department, \$215,175.25.

The amendment was agreed to.

The next amendment was, on page 102, line 9, after the words "Navy Department," to strike out "\$23,145.66" and insert "\$90,622.68;" so as to make the clause read:

Under the Navy Department, \$90,622.68.

The amendment was agreed to.

The next amendment was, on page 102, line 15, after the words "Department of Justice," to strike out "\$630.15" and insert "\$4,973.50;" so as to make the clause read:

Under the Department of Justice, \$4,973.50.

The amendment was agreed to.

The next amendment was, on page 102, line 18, after the words "Post-Office Department," to strike out "\$1,207.52" and insert "\$3,113.18;" so as to make the clause read:

Under the Post-Office Department, \$3,113.18.

The amendment was agreed to.

The next amendment was, on page 102, line 21, after the word "Labor," to strike out "\$4,756.24" and insert "\$9,716.81;" so as to make the clause read:

Under the Department of Commerce and Labor, \$9,716.81.

The amendment was agreed to.

The next amendment was, on page 102, line 25, after the word "all," to strike out "\$198,454.50" and insert "\$361,097.50;" so as to make the clause read:

In all, \$361,097.50: *Provided*, That none of the judgments herein provided for shall be paid until the right of appeal shall have expired.

The amendment was agreed to.

The next amendment was, under the head of "Judgments in Indian depredation claims," on page 103, line 8, after the word "forty-three," to insert "and Senate Document No. 180;" and after "180," in line 9, to strike out "\$20,653" and insert "\$241,905;" so as to read:

For payment of judgments rendered by the Court of Claims in Indian depredation cases, certified to Congress at its present session in House Document No. 43 and Senate Document No. 180, \$241,905.

The amendment was agreed to.

The next amendment was, under the head of "Judgments in United States courts," on page 104, line 12, after "367," to insert "and Senate Document No. —;" so as to read:

For payment of the final judgments and decrees, including costs of suit, which have been rendered under the provisions of the act of March 3, 1887, entitled "An act to provide for the bringing of suits against the Government of the United States," certified to Congress at its present session by the Attorney-General in House Document No. 367, and Senate Document No. —, of this session, and which have not been appealed, as follows, etc.

The amendment was agreed to.



The next amendment was, on page 105, after line 2, to insert:

JUDGMENT OF CIRCUIT COURT OF SHAWANO COUNTY, WIS.

For payment of a judgment with interest and costs entered in the circuit court for Shawano County, State of Wisconsin, in the case of the Wolf River Paper and Fiber Company, plaintiff, and the Campbell & Cameron Company and the United States of America, defendants, \$3,014.51.

The amendment was agreed to.

The next amendment was, under the subhead "Claims allowed by the Auditor for the War Department," on page 108, line 17, after the word "States," to insert "(New Jersey)"; so as to make the clause read:

For refunding to States (New Jersey) expenses incurred in raising volunteers, \$222,418.39.

The amendment was agreed to.

The next amendment was, on page 108, after line 24, to insert:

For refunding to the State of Wisconsin expenses incurred in raising volunteers, as reported in Senate Document No. —, this session, \$725,981.88.

The amendment was agreed to.

The next amendment was, under the subhead "Claims allowed by the Auditor for the Post-Office Department," on page 115, after line 16, to insert as a new section the following:

SEC. 3. That for the payment of the following claims, certified to be due by the several accounting officers of the Treasury Department under appropriations the balances of which have been exhausted or carried to the surplus fund under the provisions of section 5 of the act of June 20, 1874, and under appropriations heretofore treated as permanent, being for the service of the fiscal year 1902 and prior years unless otherwise stated, and which have been certified to Congress under section 2 of the act of July 7, 1884, as fully set forth in Senate Documents No. — reported to Congress at its present session, there is appropriated as follows:

CLAIMS ALLOWED BY THE AUDITOR FOR THE TREASURY DEPARTMENT.

For expenses of Revenue-Cutter Service, fiscal year 1903, \$194.  
For payment of judgments against internal-revenue officers, \$18,904.80.

CLAIMS ALLOWED BY THE AUDITOR FOR THE WAR DEPARTMENT.

For pay, etc., of the Army, \$4,436.09.  
For subsistence of the Army, \$450.15.  
For clothing, and camp and garrison equipage, \$330.54.  
For incidental expenses, Quartermaster's Department, \$95.56.  
For transportation of the Army and its supplies, \$10,327.88.  
For headstones for graves of soldiers, \$118.68.  
For relief of refugees, freedmen and abandoned lands, \$168.75.  
For pay, transportation, services, and supplies of Oregon and Washington volunteers in 1855 and 1856, \$78.15.

CLAIMS ALLOWED BY THE AUDITOR FOR THE NAVY DEPARTMENT.

For pay of the Navy, \$2,355.05.  
For pay, miscellaneous, \$8.  
For pay, Marine Corps, \$103.13.  
For clothing, Marine Corps, \$7.50.  
For transportation and recruiting, Marine Corps, fiscal year 1904, 25 cents.  
For contingent, Marine Corps, fiscal year 1903, \$4.93.  
For transportation, Bureau of Navigation, fiscal year 1904, \$409.79.  
For transportation, recruiting, and contingent, Bureau of Navigation, \$6.  
For gunnery exercises, Bureau of Navigation, \$14.84.  
For contingent, Bureau of Equipment, fiscal year 1904, \$445.47.  
For contingent, Bureau of Equipment, fiscal year 1903, \$1.79.  
For contingent, Bureau of Medicine and Surgery, fiscal year 1904, \$16.01.  
For provisions, Navy, Bureau of Supplies and Accounts, \$21.60.  
For indemnity for lost property, naval service, act of March 2, 1895, \$72.05.  
For indemnity for lost clothing, \$60.  
For destruction of clothing and bedding for sanitary reasons, \$13.15.  
For enlistment bounties to seamen, \$133.34.  
For bounty for destruction of enemy's vessels, \$2.08.

CLAIMS ALLOWED BY THE AUDITOR FOR THE INTERIOR DEPARTMENT.

For contingent expenses, office of surveyor-general of California, fiscal year 1904, \$8.19.  
For surveying the public lands, \$12,365.22.  
For Geological Survey, fiscal years 1903 and 1904, \$142.56.  
For contingent expenses of land offices, \$1.25.  
For telegraphing and purchase of Indian supplies, fiscal year 1904, \$95.45.  
For transportation of Indian supplies, \$13.86.  
For payment to estate of James She-wah-ha, deceased, a Chickasaw Indian, for stock stolen from him in 1866 by Comanche Indians, \$750.  
For payment to estate of Jinney Casey, deceased, a Chickasaw Indian, for stock stolen from her in 1866 by Comanche Indians, \$250.

CLAIMS ALLOWED BY THE AUDITOR FOR THE STATE AND OTHER DEPARTMENTS.

State Department: For steam launch for legation at Constantinople, \$5.39.  
For bringing home criminals, fiscal year 1903, \$8.71.  
For contingent expenses, United States consulates, fiscal year 1904, \$1,628.97.  
For contingent expenses, United States consulates, fiscal year 1903, \$305.  
For contingent expenses, United States consulates, \$11.86.  
Department of Justice: For salaries, fees, and expenses of marshals, United States courts, \$762.09.  
For salaries and expenses of district attorneys, United States courts, fiscal year 1904, \$12.17.  
For fees of clerks, United States courts, fiscal year 1904, \$737.  
For fees of witnesses, United States courts, \$12.60.  
For support of prisoners, United States courts, \$9.50.  
For prosecution of Indians in Arizona, act February 24, 1905, \$3,768.81.

The amendment was agreed to.

The next amendment was, on page 122, line 4, after the word "expenditure," to insert "but this provision shall not apply to the contingent appropriations of the Senate or House of Representatives;" so as to read:

All appropriations made for contingent expenses or other general purposes, except appropriations made for the fulfillment of contract obligations expressly authorized by law, or for objects required or authorized by law without reference to the amounts annually appropriated therefor, shall, on or before the beginning of each fiscal year, be so apportioned by monthly or other allotments as to prevent undue expenditures in one portion of the year that may require deficiency or additional appropriations to complete the service of the fiscal year; and all such apportionments shall be adhered to except when waived or modified in specific cases by the written order of the head of the Executive Department or other Government establishment having control of the expenditure, but this provision shall not apply to the contingent appropriations of the Senate or House of Representatives; etc.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. KEAN. I offer the amendment which I send to the desk.

The PRESIDING OFFICER (Mr. BURROWS in the chair). The amendment will be stated.

The SECRETARY. On page 89, after line 10, it is proposed to insert:

There shall be employed in the office of the Secretary of the Senate an Assistant Secretary of the Senate (Henry M. Rose) at an annual salary at the rate of \$5,000 per annum.

The amendment was agreed to.

Mr. STEWART. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 90, after line 20, it is proposed to insert:

To pay James D. Finch, jr., assistant clerk of the Committee on Indian Affairs, for extra services in compiling and preparing indexes to committee reports and stenographic work, \$250.

Mr. HALE. There is no objection to that amendment.

The amendment was agreed to.

Mr. BURROWS. I ask unanimous consent to offer the amendment which I send to the desk.

The PRESIDING OFFICER (Mr. KEAN in the chair). The amendment will be stated.

The SECRETARY. Add at the end of the bill the following:

For the purpose of assisting in the celebration of the fiftieth anniversary of the inauguration of the Sault Ste. Marie Ship Canal, to be held at Sault Ste. Marie, Mich., the present year, \$10,000.

The amendment was agreed to.

Mr. LONG. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. At the end of the bill it is proposed to insert:

That that portion of an act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1905, and for other purposes, approved March 18, 1904, which provides that the legislative assembly of the Territory of Oklahoma shall not make any appropriation or enter into any contract for a capitol building, or any other public building, shall not apply to the University Preparatory Normal School at Tonkawa, nor the Colored Agricultural and Normal School at Langston, in said Territory.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was agreed to.

Mr. MCENERY. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 17, after line 2, it is proposed to insert:

That the Secretary of the Treasury, with the approval of the President, is hereby authorized to return to the Citizens' Bank of Louisiana the money taken from said bank by military order on June 19, 1862, and now in the Treasury.

Mr. HALE. There is no objection to that amendment.

The amendment was agreed to.

Mr. HALE. Let the bill be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

INDIAN APPROPRIATION BILL.

Mr. STEWART submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17474) "making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30th, 1906, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 9, 11, 14, 15, 16, 17, 19, 21, 23, 24, 28, 34, 35, 38, 42, 43, 46, 47, 50, 51,



53, 55, 56, 57 58, 59, 60, 61, 62, 64, 69, 91, 95, 96, 102, 104, 107, 108, 113, 119, 120, 124, 125, 133, 136, 138, 139, 142, 144, 145, 149, 150 and 153.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 5, 6, 8, 10, 13, 18, 22, 25, 26, 27, 36, 41, 44, 45, 48, 54, 63, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 92, 101, 103, 105, 106, 110, 112, 121, 122, 123, 126, 127, 128, 129, 130, 131, 132, 134, 136, 137, 141, 146, 151, 152; and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the number proposed insert "two;" and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the number proposed insert "two;" and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: Strike out all of said amendment and insert in lieu thereof the following:

"Interest on sixty-five thousand, two hundred and three dollars and eleven cents, at five per centum per annum, for educational and other beneficial purposes, per treaty of May eighteenth, eighteen hundred and fifty-four, three thousand two hundred and sixty dollars and fifteen cents.

"This amount to enable the President of the United States to pay the legal representatives of one deceased Kickapoo Indian (Sakto), the settlement of whose estate is desired under the provisions of section 2 of the act of August fourth, eighteen hundred and eighty-six, such sum as may be the proportion of one hundred thousand dollars provided by said tribe for education, and other beneficial purposes, not exceeding three hundred and thirty-seven dollars and eighty-three cents. (Act of June 29, 1888, 25 Stats., page 24.)"

And the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "That the Secretary of the Interior is hereby authorized to investigate through an inspector or otherwise existing conditions of the California Indians and to report to Congress at the next session some plan to improve the same;" and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lines 4 and 5 of said amendment strike out the words "twenty-five thousand" and insert the words "fifteen thousand;" and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In lines 2 and 3 of said amendment strike out the words "twenty-five thousand" and insert the words "fifteen thousand;" and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "For special clerical force in the office of the United States Indian agent, Union Agency, and miscellaneous expenses in connection with entering of remittances received on account of payments of town lots and issuance of patents, and conveying same, six thousand dollars;" and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows: In lieu of the sum proposed to be inserted by said amendment insert: "two hundred thousand dollars;" and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows:

In line 4 of said amendment, after the word "fraud," insert the following: "or in violation of the terms of existing agreements with any of the Five Civilized Tribes;"

In line 9 of said amendment, after the word "fraud," insert the following: "or in violation of such agreements;"

In line 14 of said amendment, after the word "has," insert the following: "been investigated by and has;"

And the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: At the end of said amendment add the following: "and except that the President of the United States shall determine the amount of royalty to be paid for oil. Said determination shall be evidenced by filing with the Secretary of the Interior on or before December thirty-first, nineteen hundred and five, such determination; and the Secretary of the Interior shall immediately mail to the Illuminating Oil Company and each sub-lessee a copy thereof;" and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: Strike out all of said amendment and in lieu thereof insert the following:

"That there shall be created an Osage Townsite Commission consisting of three members, one of whom shall be the United States Indian Agent at the Osage Agency, one to be appointed by the Chief Executive of the Osage tribe and one by the Secretary of the Interior, who shall receive such compensation as the Secretary of the Interior may prescribe to be paid out of the proceeds of the sale of the lots sold under this Act.

"That the Secretary of the Interior shall reserve from selection and allotment the south half of section four and the north half of section nine, township twenty-five north, range nine east of the Indian meridian, including the town of Pawhuska, which, except the land occupied by the Indian school buildings, the agency reservoir, the agent's office, the council building and the residences of agency employees, and a twenty-acre tract of land including the Pawhuska cemetery, shall be surveyed, appraised and laid off into lots, blocks, streets and alleys by said townsite commission, under rules and regulations prescribed by the Secretary of the Interior, business lots to be twenty-five feet wide and residence lots fifty feet wide, and sold at public auction, after due advertisement, to the highest bidder by said townsite commission, under such rules and regulations as may be prescribed by the Secretary of the Interior, and the proceeds of such sale shall be placed to the credit of the Osage tribe of Indians: *Provided*, That said lots shall be appraised at their real value exclusive of improvements thereon or adjacent thereto, and the improvements appraised separately: *And provided further*, That any person, church, school or other association in possession of any of said lots and having permanent improvements thereon, shall have a preference right to purchase the same at the appraised value, but in case the owner of the improvements refuses or neglects to purchase the same, then such lots shall be sold at public auction at not less than the appraised value, the purchaser at such sale to have the right to take possession of the same upon paying the occupant the appraised value of the improvements. There shall in like manner be reserved from selection and allotment one hundred and sixty acres of land, to conform to the public surveys, including the buildings now used by the licensed traders and others, for a town site at the town of Hominy; and the south half of the north west quarter and the north half of the south west quarter, of section seven, township twenty-four north, range six east, for a townsite at the town of Fairfax, and the north east corner, section thirteen, township twenty-four, range five east, consisting of ten acres, to be used for cemetery purposes; and two townsites of one hundred and sixty acres each on the line of the Midland Valley Railroad Company adjacent to stations on said line, not less than ten miles from Pawhuska. And the town lots at said towns of Fairfax and Hominy and at said townsites on line of the Midland Valley Railroad shall be surveyed, appraised and sold the same as provided for town lots in the town of Pawhuska."

And the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

Restore the matter proposed to be stricken out.

In line 22 of the bill, after the word "property" insert the words "in the Territory of Oklahoma"

And the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

Restore the matter proposed to be stricken out.

After line 23 of the bill, add the following:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to issue a patent in fee simple to W. E. Hardy, Amelia Clavier, Melinda Harris, William Hardy, W. F. S. Hardy, and members of the Kansas tribe of Indians in Oklahoma, for the lands heretofore allotted to her in the Territory,



of Oklahoma and described as follows: Lot six of section seven, and the north half of the southwest one-quarter of section eight, all in township twenty-seven, range four, containing one hundred and fifty-five acres, and the west half of the southwest one-quarter, and the northwest one-quarter of section twenty-one, township twenty-eight, range five, containing two hundred and forty acres, all on the Kansas Reservation in Oklahoma Territory.

"That the Secretary of the Interior be, and he is hereby, authorized and directed to issue patents in fee to Okemah, and his wife Thithequa, Wahnakkethehah, Noten, Tappahthea, Shucke-quah and Neconopit, members of the Kickapoo tribe heretofore allotted in the Territory of Oklahoma for lands, so allotted to them, in said Territory, and all restrictions as to sale, incumbrance or taxation of said lands are hereby removed."

"That the Secretary of the Interior be, and he is hereby, authorized and directed to issue a patent in fee to W. T. Whittaker for the land heretofore allotted to him in the Cherokee Nation, as follows: The west one-half of the northwest quarter of the southwest quarter of section 17, township 21, north, range 19 East, and the northeast quarter of the northwest quarter of the southwest quarter of section 17, township 21 north, range 19 East, containing thirty acres."

And the Senate agree to the same.

Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: In line 6 of said amendment, after the word "five" insert the words: "unless the President shall determine that the same may be opened at an earlier date"; and the Senate agree to the same.

Amendment numbered 94: That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows: At the end of said amendment add the following:

"That the Raven Mining Company shall, within sixty days from the passage of this act, file for record, in the office of the recorder of deeds of the county in which its claims are located, a proper certificate of each location; and it shall also, within the same time, file in the office of the Secretary of the Interior, in the city of Washington, said description and a map showing the locations made by it on the Uintah Reservation, Utah, under the act of Congress of May twenty-seventh, nineteen hundred and two (Statutes at Large, volume thirty-two, page two hundred and sixty-three); and thereupon the Secretary of the Interior shall forthwith cause said locations to be inspected and report made and if found to contain the character of mineral to which said company is entitled by the act of Congress aforesaid and that each of said claims does not exceed the size of a regular mining claim, to wit, six hundred by fifteen hundred feet, he shall issue a patent in fee to the Raven Mining Company for each of said claims: *Provided further*, That the Florence Mining Company entitled under the act of Congress approved May twenty-seventh, nineteen hundred and two, to the preferential right to locate not to exceed six hundred and forty acres of contiguous mineral land in the Uintah Reservation, Utah, shall within sixty days from the passage of this Act file in the office of the recorder of deeds of the county in which its location is made a proper description of its claim, and it shall within the same time file in the office of the Secretary of the Interior said description and a map showing the location made by it on the Uintah Reservation, Utah, and thereupon the Secretary of the Interior shall forthwith cause said location to be inspected and report thereon made, and if found not to exceed six hundred and forty acres he shall issue a patent in fee to said Company for the said land: *And provided further*, That the extension of time for opening the unallotted lands to public entry herein granted shall not extend the time to make locations to any person or company heretofore given a preferential right, but the Raven Mining Company and the Florence Mining Company pending the time for opening to public entry the Uintah Reservation shall have the right of ingress and egress to and from their respective properties over and through said reservation."

And the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by said amendment, insert the following:

"That Delaware-Cherokee citizens who have made improvements, or were in rightful possession of such improvements upon lands in the Cherokee Nation on April twenty-first, nineteen hundred and four, to which there is no valid adverse claim, shall have the right within six months from the date of the approval of this Act to dispose of such improvements to other

citizens of the Cherokee Nation entitled to select allotments at a valuation to be approved by an official to be designated by the President for that purpose, and the amount for which said improvements are disposed of, if sold according to the provisions of this Act, shall be a lien upon the rents and profits of the land until paid, and such lien may be enforced by the vendor in any court of competent jurisdiction: *Provided*, That the right of any Delaware-Cherokee citizen to dispose of such improvements shall, before the valuation at which the improvements may be sold, be determined under such regulations as the Secretary of the Interior may prescribe."

And the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by said amendment insert the following:

"That the Commission to the Five Civilized Tribes is hereby authorized for sixty days after the date of the approval of this act to receive and consider applications for enrollment of infant children born prior to September twenty-fifth, nineteen hundred and two, and who were living on said date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act; and to enroll and make allotments to such children."

"That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this act to receive and consider applications for enrollment of children born subsequent to September twenty-fifth, nineteen hundred and two, and prior to March fourth, nineteen hundred and five, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act; and to enroll and make allotments to such children."

And the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this act to receive and consider applications for enrollments of children born subsequent to May twenty-five, nineteen hundred and one, and prior to March fourth, nineteen hundred and five, and living on said latter date, to citizens of the Creek tribe of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act; and to enroll and make allotments to such children;" and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "That the Commission to the Five Civilized Tribes is authorized for ninety days after the date of the approval of this act to receive and consider applications for enrollment of infant children born prior to March fourth, nineteen hundred and five, and living on said latter date, to citizens of the Seminole tribe whose enrollment has been approved by the Secretary of the Interior; and to enroll and make allotments to such children, giving to each an equal number of acres of land, and such children shall also share equally with other citizens of the Seminole tribe in the distribution of all other tribal property and funds;" and the Senate agree to the same.

Amendment numbered 109: That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment as follows: In line 6 of said amendment, strike out the words "ratified June 30, 1902," and insert the words "approved March 1, 1901;" and the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: Strike out of said amendment, after the word "respectively," in line 5, down to and including the word "tribe," in line 9; and the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by said amendment, insert the following: "That the Secretary of the Interior be and he is hereby authorized and directed to investigate the number of Clatsop Indians of Oregon and Washington, Tillamook Indians

of Oregon, Lower Band of Chinook Indians of Washington and Kathlamet Band of Chinook Indians of the State of Oregon, or their heirs, who can be identified as belonging to said tribes at the time of executing certain agreements dated August fifth, August seventh and August ninth, in the year 1851, and report his findings to Congress at its next session;" and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows: In lieu of the sum proposed to be appropriated by said amendment, insert the following "four hundred thousand dollars"; and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows: In lieu of the sum proposed to be appropriated, insert "one million seven hundred thousand dollars"; and the Senate agree to the same.

Amendment numbered 117: That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "for an addition to hospital, ten thousand dollars"; and the Senate agree to the same.

Amendment numbered 118: That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows: In lieu of the sum proposed to be inserted, insert "sixty-one thousand dollars"; and the Senate agree to the same.

Amendment numbered 140: That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment as follows:

In line 7 of said amendment, after the word "cents" insert the following: "to be immediately available."

In line 11 of said amendment, after the words "United States" insert the following: "Provided further, That the Secretary of the Interior be and is hereby authorized and directed to pay out of the above amount to Samuel J. Crawford, attorney of record for said Indians, an amount equal to ten per cent of said sum of one hundred and fifty-five thousand nine hundred and seventy-six dollars and eighty-eight cents in full for services and expenses incident to the prosecution of the claims of said Indians: *Provided, however,* That no part of said sum shall be paid until said Indians in general council lawfully convened for that purpose, shall execute and deliver to the United States a general release of all claims and demands of every name and nature against the United States."

And the Senate agree to the same.

Amendment numbered 148: That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows: Strike out of said amendment lines 1 to 16, inclusive; and the Senate agree to the same.

On page 29 of the bill, line 6, after the word "Tribes," your conferees recommend that the words "exclusive of salaries and expenses of commissioners" be stricken out; and the Senate agree to the same.

Your committee report a disagreement on amendments numbered 36, 143, and 147, and ask instructions of the Senate thereon.

WM. M. STEWART,  
P. J. McCUMBER,  
FRED T. DUBOIS,

*Managers on the part of the Senate.*

JAS. S. SHERMAN,  
CHARLES CURTIS,

*Managers on the part of the House.*

The report was agreed to.

Mr. STEWART. I move that the Senate still further insist upon its amendments disagreed to by the House of Representatives, and ask for a further conference thereon.

The motion was agreed to.

By unanimous consent, the Presiding Officer was authorized to appoint the conferees on the part of the Senate, and Mr. STEWART, Mr. McCUMBER, and Mr. DUBOIS were appointed.

#### PREVENTION OF SMOKE IN THE DISTRICT OF COLUMBIA.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 5103) to amend an act for the prevention of smoke in the District of Columbia, and for other purposes.

Mr. ALLISON. I should like to ask the Senator from Nevada if this bill provides for a sufficient number of inspectors?

Mr. STEWART. After consultation with my colleagues on the committee, I move that the Senate disagree to the amendment of the House of Representatives, and ask for a conference with the House on the bill and amendment.

Mr. ALLISON. I do not make any objection to the bill.

Mr. GORMAN. No; but I think it ought to go to conference. There is a very wide difference between the two Houses.

The PRESIDING OFFICER. The question is on the motion of the Senator from Nevada [Mr. STEWART].

The motion was agreed to.

By unanimous consent the Presiding Officer was authorized to appoint the conferees on the part of the Senate, and Mr. GALLINGER, Mr. STEWART, and Mr. MARTIN were appointed.

SARAH E. HAYNER.

Mr. McCUMBER. I ask unanimous consent to report without amendment from the Committee on Pensions, the bill (H. R. 11861) granting a pension to Sarah E. Hayner, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to place on the pension roll the name of Sarah E. Hayner, former widow of William H. Gosline, late captain Company A, One hundred and seventy-seventh Regiment Pennsylvania Volunteer Infantry, and to pay her a pension of \$8 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### TEMPORARY GOVERNMENT OF CANAL ZONE.

Mr. KITTREDGE. I ask unanimous consent at this time to be permitted to introduce a joint resolution.

The PRESIDING OFFICER. In the absence of objection, the joint resolution will be received.

The joint resolution (S. R. 114) to continue in force the provisions of section 2 of "An act to provide for the temporary government of the Canal Zone at Panama, the protection of the canal works, and for other purposes," approved April 28, 1904, was read twice by its title.

Mr. KITTREDGE. I ask that the joint resolution be laid over until to-morrow.

Mr. GORMAN. I suggest to the Senator that he ask unanimous consent that the resolution may be considered immediately after the routine morning business to-morrow.

Mr. KITTREDGE. Very well; I make that request.

The PRESIDING OFFICER. In the absence of objection, it will be so ordered.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 2605. An act to authorize the appointment of Acting Asst. Surg. Leopold Herbert Schwerin, United States Navy, as an assistant surgeon in the United States Navy; and

S. 6744. An act relative to the commissions of officers who are under the direction and control of the Postmaster-General and the Secretary of Commerce and Labor, respectively.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 18969) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1906, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HEMENWAY, Mr. GILLET of Massachusetts, and Mr. BENTON managers at the conference on the part of the House.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were subsequently signed by the President pro tempore:

H. R. 1520. An act for the relief of the Mission of St. James, in the State of Washington;

H. R. 11218. An act setting aside a certain island in Bartlett Lake, Minnesota, as a park and forest reserve;

H. R. 14522. An act directing the issue of a check in lieu of a lost check drawn by Col. John V. Furey, assistant quartermaster-general, United States Army, in favor of John Wanamaker;

H. R. 15566. An act extending the provisions of section 2301 of the Revised Statutes of the United States to homestead settlers on lands in the State of Minnesota, ceded under the act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889;

H. R. 17019. An act granting certain lands to the city of Tacoma, in the State of Washington, for use as a public park;

H. R. 17094. An act making appropriations for fortifications



and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial service, and for other purposes;

H. R. 17102. An act to extend the time within which actions for the recovery of duties paid in Porto Rico may be brought in the Court of Claims under the act of April 29, 1902;

H. R. 17935. An act authorizing the Louisa and Fort Gay Bridge Company, of Louisa, Ky., to erect a bridge across the Tug and Levisa forks of the Big Sandy River;

H. R. 17994. An act to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation, in the State of Wyoming, and to make appropriations for carrying the same into effect;

H. R. 18198. An act to amend sections 4417, 4453, 4488, and 4499 of the Revised Statutes, relating to the Steamboat-Inspection Service, and section 5344 of the Revised Statutes, relating to misconduct by officers or owners of vessels;

H. R. 18329. An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1906;

H. R. 18358. An act to authorize the Borderland Coal Company, of Nolan, W. Va., to bridge the Tug Fork of the Big Sandy River at a point about 2 miles east of Nolan, Mingo County, W. Va., where the same forms a boundary line between the States of West Virginia and Kentucky;

H. R. 18528. An act to provide for the covering into the reclamation fund of certain proceeds of sales of property purchased by the reclamation fund;

H. R. 18586. An act to aid in quieting title to certain lands within the Klamath Indian Reservation, in the State of Oregon;

H. R. 18641. An act to amend sections 56, 80, and 86 of "An act to provide a government for the Territory of Hawaii," approved April 30, 1900;

H. R. 18752. An act for the resurvey of certain townships in the counties of Rock and Brown, in the State of Nebraska;

H. R. 18906. An act authorizing the construction of two bridges across the Ashley River, in the counties of Charleston and Dorchester, S. C.;

H. R. 18975. An act to authorize the levying of certain special assessments;

H. R. 19026. An act permitting the building of a dam across the Mississippi River near the village of Bemidji, Beltrami County, Minn.;

H. R. 19052. An act to incorporate the American Academy in Rome; and

H. R. 19118. An act to authorize the Secretary of the Interior to construct dams across the Yellowstone River in Montana in connection with irrigation works.

#### SUNDRY CIVIL APPROPRIATION BILL.

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 18969) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1906, and asking for a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HALE. In the absence of the Senator from Iowa [Mr. ALLISON], I move that the Senate insist on its amendments disagreed to by the House of Representatives and agree to the conference asked for by the House.

The motion was agreed to.

By unanimous consent, the Presiding Officer was authorized to appoint the conference on the part of the Senate; and Mr. ALLISON, Mr. HALE, and Mr. COCKRELL were appointed.

#### POSTAL EMPLOYEES.

Mr. PENROSE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3379) "to amend section 66 of the act of June 8, 1872, entitled 'An act to revise, consolidate and amend the statutes relating to the Post-Office Department,' having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same.

BOIES PENROSE,  
J. P. DOLLIVER,  
A. S. CLAY,

*Managers on the part of the Senate.*

JESSE OVERSTREET,  
JOHN A. MOON,  
J. J. GARDNER,

*Managers on the part of the House.*

The report was agreed to.

#### STATEHOOD BILL.

Mr. ALLISON. I move that the Senate adjourn, to meet to-morrow at 11 o'clock.

Mr. BAILEY. I ask the Senator to withhold that motion for a moment.

Mr. ALLISON. I will withhold it.

Mr. BAILEY. I have heretofore offered what I believe is a privileged resolution, which I should like to have laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate the resolution yesterday submitted by the Senator from Texas [Mr. BAILEY], which will be read.

The Secretary read as follows:

*Resolved*, That the order heretofore made by the Senate insisting on its amendments to H. R. 14749, a bill "to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States," and agreeing to a conference be rescinded; that the conferees heretofore appointed on the part of the Senate be discharged from further duty in that behalf, and that the Senate recede from its amendment on page 23, No. 46, and its amendment on page 42, beginning with line 9, down to and including line 24 on page 59, in the print of February 9, 1905, and insist upon its other amendments to the said bill.

Mr. BAILEY. Mr. President, if we can have a vote upon the resolution, I will not occupy the time of the Senate in discussing it.

Mr. BLACKBURN. The Senator from Texas may as well understand now as hereafter that the Senate is not ready to vote upon that resolution and will not be for several days.

Mr. BAILEY. Then I shall proceed with what I desire to say—

Mr. LODGE. Before the Senator begins will he allow me? I should like to have the amendments read.

Mr. BAILEY. I was just going to specify the amendments and point out their effect.

Mr. LODGE. I think they ought to be before the Senate.

Mr. BAILEY. I think there is no clearer way to bring them before the Senate than by a discussion, and if the Senator from Massachusetts will withhold his suggestion for a moment I think I can satisfy him and every other Senator in much less time than it would take to read the amendments.

The amendment 46, from which the resolution proposes that the Senate shall recede, is that amendment which attaches a part of the Territory of Arizona to the State of Utah. The amendment beginning on page 42, from which the resolution proposes to recede, is what is known as the "Bard amendment," providing for the admission of New Mexico as a separate State.

The amendments upon which the resolution proposes to insist are all of the Senate amendments relating to the admission of Oklahoma and the Indian Territory, including what is known as the "Bacon amendment," which struck from the bill all matter relating to both New Mexico and Arizona; and if the resolution shall be adopted, the bill framed in accordance with it would simply provide for the admission of Oklahoma and the Indian Territory as one State upon the precise terms and conditions contained in the bill as it passed the Senate.

Mr. LODGE. I should like to ask the Senator from Texas how we can possibly deal with this subject, which is not before the Senate? The papers are not here; the bill is not here. How can we do anything more than to ask the House to return the bill?

Mr. BAILEY. Of course that raises a question which I supposed at a proper time would be raised, but I will digress from what I was about to say long enough to make this observation.

If it be true that the Senate can not resort to some such procedure as this, then it must be true that a conference committee can take the papers relating to any subject-matter and, by prolonging their conference until within an hour or an insufficient time before adjournment, can deprive either House or both Houses of the opportunity to enact a measure, which an overwhelming majority might earnestly desire to make a law.

Mr. BLACKBURN. Will the Senator from Texas permit me to make a suggestion?

Mr. BAILEY. Certainly.

Mr. BLACKBURN. The Senate is not now in possession of the papers in this case. The Senate has no possession of them. A conference committee is composed of members of both Houses of Congress, and by order of the Senate that bill and every paper connected with it have been put beyond the control or reach of the Senate by such a procedure as is suggested.

The condition that the Senator from Texas so much apprehends is not imminent. The Senate can repossess itself, but not by this method of procedure. That bill and the papers accompanying it are now in the possession of a joint committee, one-half composed of the membership from this Chamber, and one-half from the membership of the House. So the Senate

is no longer in possession either of the bill or of the papers to be affected by the resolution of the Senator from Texas.

Mr. BAILEY. Mr. President, before addressing myself to that phase of the question I wish briefly to lay before the Senate the considerations which have induced me to resort to this unusual and, perhaps, extraordinary procedure.

I remind the Senator from Kentucky and all of the other Senators that the portion of what is known as the "statehood bill" providing for the admission of Oklahoma and the Indian Territory passed this body with practically no dissenting vote. I was one of the thirty-two Senators who voted for the motion of the distinguished Senator from South Dakota, which proposed the separate and independent admission of the Territory of Oklahoma, but I prefaced that vote with a statement that if the amendment of the Senator should prevail I would follow it immediately with a similar amendment providing for the admission of the Indian Territory as a separate State.

I have believed from the beginning, and I believe to-night, that full justice to both of these Territories requires that each should be admitted as a State. But for reasons which it is now not necessary for me to recite, the mind of the Senate and the mind of the House of Representatives have become fixed upon the joint admission of these two Territories as a single State. I believe a different result could have been reached if the people in those Territories had insisted upon their separate admission. But those people did not choose to pursue that course; and by petition, by letter, and by every proper means which they could command to influence the action of the Congress, they have urged the joint admission of the two Territories as a single State. This has proceeded so far that I know their separate admission is now beyond any reasonable hope, and that when they shall be admitted as a State into the Union they will be admitted together as one Commonwealth.

Having reached that conclusion, I did not feel at liberty to insist that they should remain out of the Union upon an impracticable demand for their separate admission, and seeing that their united admission is certain at last, I felt that it ought to come as speedily as possible.

That was the view of almost every Senator who voted for the amendment offered by the Senator from South Dakota, and many—indeed, I might well-nigh say all—of the Senators who voted with him for the separate admission of Oklahoma, when that motion failed, united with the others in voting for their united admission, and thus that part of the bill uniting Oklahoma and the Indian Territory and providing for their admission as a State passed by a practically unanimous vote of the Senate.

I will go further, Mr. President, and I declare it as my positive belief, after consultation with nearly every Senator in this body upon the subject, that if Oklahoma and the Indian Territory to-night could be separated from New Mexico and Arizona and a bill to admit them into the Union as a State could be put upon its passage there would not be five votes in the Senate against it. I do not believe on an independent proposition to admit these two Territories there would be ten negative votes in the House of Representatives. And yet, sir, we witness the remarkable and irritating spectacle that a proposition which would command the practically unanimous support of both Houses is made to wait upon a controverted question which has no natural and proper connection with it.

The only delay, the only controversy, the only argument is as to whether New Mexico and Arizona shall be admitted now, and if admitted now whether they should be admitted as a single State or as two separate States. I defy the ingenuity of any Senator to find in that contention any fair and just reason for denying immediate admission to Oklahoma and the Indian Territory.

Mr. President, there are over 700,000 American citizens in the Territory of Oklahoma, and there are over 700,000 other American citizens in the Indian country. The joint population of the two Territories probably exceeds 1,500,000 to-day, and yet for two years they have been appealing in vain to the American Congress for the right to govern themselves. It has never before happened in the history of this Republic that such a number of people have been denied admission to the Union, and no State now in the Union, either admitted after the adoption of the Constitution or admitted with the adoption of the Constitution by its ratification, ever contained half as many people as are residing in that country. Senators who have been so fortunate as never to have been compelled to live under a Territorial government can have little idea of its inconvenience and difficulty; but bad as Territorial government is, even that poor excuse has never been established in the Indian country. Seven hundred thousand American citizens

are living there to-night without any law which they are permitted to make, without any officer whom they choose to execute the laws which others make for them. Indeed, they are living without any law in its proper sense made by any legislative body, because they are governed by orders and regulations promulgated by the Secretary of the Interior.

To this side of the Chamber I appeal. Never before has a Democrat denied a sufficient number of people the right to erect their own government, to choose their own officers, and to make their own laws. The other side of the Chamber must remember that in the infancy of their party it was a champion of the right of the people in a Territory to become citizens of a State. But by some strange course of reasoning we find eminent Senators determined to prevent, if they can, the American Congress from granting a right to this million and a half of American citizens which all concede they are entitled to enjoy.

I do not myself look for any hidden explanation. I do not suggest any mysterious influence operating upon the minds of Senators. I know what it is and the country knows what it is. Only a very few really desire to prevent Oklahoma and the Indian Territory from becoming a State, but many doubt the wisdom of the immediate admission of Arizona and New Mexico jointly, while others doubt the justice of annexing Arizona to New Mexico against the will of both.

Senators, let us be fair. Let us say to the million and a half of people in these two Territories, "We will no longer deny you the privilege which all American freemen have a right to enjoy, and we will grant that to you, and we will remit this disputed question to future settlement."

I warn the friends of Arizona on this side of the Chamber, and I warn its friends on the other side of the Chamber, that if they prevent the passage of a bill admitting the Indian Territory and Oklahoma as a State it is as certain as that the next Congress will convene that the joint admission of New Mexico and Arizona as one State will be accomplished; and I leave that prophecy as part of the record of this Congress. It is past my comprehension why any opponent of the forcible annexation of Arizona to New Mexico can resist this plain and just proposal. If they fear that a conference agreement reached at the last moment might involve the joint admission of New Mexico and Arizona, have they not the same power under the rules of the Senate to defeat that report as they have to defeat this resolution?

Mr. President, I have never believed in filibustering, except in the most extreme cases. I believe the right to filibuster is a right kin to the right of revolution, and ought to be exercised only on a great occasion; and I can not watch with patience a filibuster led by a Democrat against the admission of a million and a half of American citizens to the full enjoyment of their political rights.

If this practice of unreasonable resistance can be carried so far and resorted to so often that the American people will finally conclude that our rules under which five men can defeat the clearly expressed will of their eighty-five associates is a parliamentary absurdity. I hope never to be driven to vote for an amendment to these rules abridging the freedom of debate, but whenever I am brought face to face with a condition in which one Senator can defy and defeat the will of eighty-nine Senators, I am ready to change the rule which renders that possible; and whatever may be the inclination of Senators in respect to it, the American people will compel a change of that rule.

I think nothing could be less wise, and I doubt if anything could be more dangerous, than a system of procedure under which we are compelled to decide great questions without an opportunity to consider and debate them; but dangerous and unwise as that is, it is not so foolish as that other procedure, under which, after debating and considering great questions, we are denied the opportunity of deciding them.

Mr. SPOONER. My friend will permit me to ask him how we can reach that in the present status. Suppose the resolution should be unanimously adopted by the Senate, would it in anywise lead to the accomplishment of the purpose which the Senator has in view, and with which I sympathize very much?

Mr. BAILEY. I think it would.

Mr. SPOONER. How?

Mr. BAILEY. I drew it for that purpose.

Mr. SPOONER. How would it?

Mr. BAILEY. I think it would hasten it in this way: It would be the Senate's proposition to the House. Now, I have no desire to go beyond the Senate Chamber for occurrences—

Mr. SPOONER. My inquiry is not a technical one.

Mr. BAILEY. I understand. I am going to answer it in good faith, as the Senator asked it in good faith. I have no desire—



Mr. DANIEL. Will my friend allow me to ask him why he would change the rules of the Senate?

Mr. BAILEY. I was moved to say it by the thinly veiled threat of the Senator from Kentucky.

Mr. SPOONER. We have all been moved to it.

Mr. BAILEY. But not moved to do it. You will, however, be moved to do it if individual Senators persist in abusing the privilege which these rules accord them.

Mr. SPOONER. That has often happened.

Mr. BAILEY. Yes; but it can always continue.

Mr. SPOONER. And all of us who have worked here long have come to know that the freedom of debate which prevails in the Senate—

Mr. BAILEY. And only in the Senate.

Mr. SPOONER. Notwithstanding, now and then it is abused by this Senator or that or a number of Senators, sometimes on one side and sometimes on the other, it tends in every way to the public good. I would not like to hear the Senator from Texas, for whom I have great admiration, commit himself to such a proposition.

Mr. BAILEY. I commit myself to it without a moment's hesitation or reserve. The Senator from Wisconsin will recall that the same right once existed in the House of Representatives, and it was employed so often and abused so seriously there that they have not only destroyed the power to filibuster, but have restricted the right—if it is parliamentary to say it—of debate until many thoughtful men have declared that the House has ceased to be a deliberative body.

Mr. SPOONER. A great many years ago, if my friend will permit me further to interrupt him, there was a limitation on debate here. If there ever was a time in the history of this country when that rule which permits freedom of debate in the Senate should be strictly adhered to it is when, without disrespect to anybody else, it can fairly be said that the Senate is the only place left, in a legislative way, where there are freedom of debate and deliberation and the right to offer amendments to bills and to discuss them.

Mr. BAILEY. That is true, and it makes it all the more regrettable that anybody should so employ this liberty as to result in its abridgement here.

Mr. SPOONER. Yes.

Mr. BAILEY. If this filibuster were employed in defending the right of a people to govern themselves I would applaud it, but I have no words to suitably condemn a determination to use it in defeating a right sacred to every liberty-loving American.

Mr. SPOONER. If my friend will permit me, should the Senate by unanimous consent to-night recede from all of its amendments to the House bill and concur in the House bill that would not pass the bill.

Mr. BAILEY. The Senator from Wisconsin can not say what would be the result. But whether the bill will or will not pass as a consequence of adopting this resolution, it will give assurance to the people who are so deeply interested in this legislation that the Senate sympathizes with their effort to obtain an American form of government for their country.

Mr. President, last Saturday morning this conference committee was appointed, when only eight days of the session remained; and yet those conferees did not hold their first meeting until Tuesday, so I am informed, and although six of the eight days will have elapsed when the Senate adjourns to-night, we have no report.

My own opinion is that the criticism, whatever it may be, does not rest upon the Senate conferees. I believe that the Senate conferees have been trying to procure an agreement which they could report back to the Senate. But I have reason to believe that it is the deliberate purpose of some to prevent any report until it is too late for the two Houses to reach an agreement.

The committee of conference meets again to-morrow at 11 o'clock. We will then have only one legislative day remaining, and if we sit here from the time we meet until by the law we are dissolved we would have twenty-five hours, with several of the great appropriation bills still pending. My understanding is that the naval appropriation bill has not yet been passed. The conferees on the river and harbor bill have not yet agreed. The sundry civil bill is still in dispute. With those three bills and the Indian appropriation bill still in conference, Senators know how easy it would be for any Senator who might choose to inaugurate and conduct a mild filibuster under which the conference committee on the statehood bill would never be able to have its report adopted, even should it make an agreeable report to the two Houses. Therefore, as the only means, in my judgment, of reaching a solution of the question, and as a means of separating the uncontroverted from the controverted part of the statehood

bill, I have proposed this resolution. The resolution may not insure the admission of Oklahoma and the Indian Territory, but it is a moral certainty that without it they will not be admitted by this Congress.

I cooperated thoroughly with my party friends throughout and at every point of the conflict over the joint admission of Arizona and New Mexico.

I do not believe it just or fair to unite those Territories against the will of their people, but if the admission of Oklahoma and the Indian Territory is prevented by the friends of Arizona and New Mexico, I will vote to join those Territories in the next Congress and at every other opportunity which presents itself. I do not believe that any people are entitled to their own government who deny that right to another people as worthy as they are and incomparably more numerous. I am not so anxious to have Senators from both those Territories as I have once been, and I certainly am not anxious to preserve the representation of a people who deny representation to their neighbors. I feel but little reluctance about abridging the rights of those who for their narrow and selfish reasons do not hesitate to impair the rights of others.

One more prediction and I am through; and it is a little hazardous to be making predictions that will either be falsified or fulfilled within two years. If this bill fails a joint statehood bill, providing for the admission of Oklahoma and the Indian Territory as one State, with New Mexico and Arizona as another State, will pass the House of Representatives before the first session of the next Congress has half completed its labors. It will come to the Senate earlier than many Senators imagine, and then no filibuster can prevent its final passage; thus the sum of it all will be that Arizona, after preventing the admission to Oklahoma and the Indian Territory, will find herself joined against her will to the Territory of New Mexico.

There is in this world a law of compensation that sooner or later will do its perfect work. No people will ever be cheerfully accorded a right which they grudgingly accord to others. If the friends of Arizona are wise they will desist. If New Mexico is made to wait, surely the 300,000 people there can better wait for five or six years than that the million and a half in Oklahoma and the Indian Territory shall be made to wait half that time, because New Mexico has at least a Territorial form of government, while the Indian Territory has none at all. The end will be that Senators who would make New Mexico wait until some better day will find her admitted early in the next Congress, and those who resist the joint and forcible annexation of Arizona and New Mexico will be rewarded for their pains by the very event which they have been striving to escape.

Mr. ALLISON. I move that when the Senate adjourns to-day it be to meet at 11 o'clock to-morrow.

The motion was agreed to.

Mr. ALLISON. I move that the Senate adjourn.

The motion was agreed to; and (at 11 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Friday, March 3, 1905, at 11 o'clock a. m.

#### NOMINATIONS.

*Executive nominations received by the Senate March 2, 1905.*

##### RECEIVER OF PUBLIC MONIES.

Gordon Kimball, of Ouray, Colo., to be receiver of public moneys at Montrose, Colo., vice John E. Pelton, term expired.

##### POSTMASTERS.

###### NEVADA.

William W. Booth to be postmaster at Tonopah (late Butler), in the county of Nye and State of Nevada, in place of William W. Booth, to change name of office.

###### PENNSYLVANIA.

David McC. Woods to be postmaster at Leetsdale, in the county of Allegheny and State of Pennsylvania, in the place of Robert S. Davis, removed.

#### CONFIRMATIONS.

*Executive nomination confirmed by the Senate March 1, 1905.*

##### SURVEYOR-GENERAL.

Edward P. Kingsbury, of Washington, to be surveyor-general of Washington.

*Executive nominations confirmed by the Senate March 2, 1905.*

##### REGISTER OF LAND OFFICE.

John W. Miller, of Wisconsin, whose term will expire March 8, 1905, to be register of the land office at Wausau, Wis.

## RECEIVER OF PUBLIC MONEYS.

Gordon Kimball, of Ouray, Colo., to be receiver of public moneys at Montrose, Colo.

## PROMOTIONS IN THE NAVY.

P. A. Paymaster John D. Barber to be a passed assistant paymaster in the Navy, with the rank of lieutenant, from the 21st day of February, 1905.

Asst. Paymaster David C. Crowell to be a passed assistant paymaster in the Navy from the 18th day of October, 1904.

P. A. Paymaster Frederick G. Pyne to be a paymaster in the Navy from the 16th day of February, 1905.

Asst. Paymaster James A. Bull to be a passed assistant paymaster in the Navy from the 16th day of February, 1905.

Pay Inspector Charles M. Ray to be a pay director in the Navy from the 18th day of February, 1905.

Paymaster Thomas S. Jewett to be a pay inspector in the Navy from the 18th day of February, 1905.

P. A. Paymaster Frederick B. Colby to be a paymaster in the Navy from the 18th day of February, 1905.

Asst. Paymaster Frank T. Watrous to be a passed assistant paymaster in the Navy from the 18th day of February, 1905.

Asst. Paymaster Arthur S. Peters to be a passed assistant paymaster in the Navy from the 19th day of February, 1905.

Commander Giles B. Harber to be a captain in the Navy from the 30th day of September, 1904.

Commander John B. Briggs to be a captain in the Navy from the 30th day of September, 1904.

Lieut. Glennie Tarbox to be a lieutenant-commander in the Navy from the 28th day of December, 1904.

Lieut. (Junior Grade) Hilary Williams to be a lieutenant in the Navy from the 1st day of January, 1905.

Lieut. Joseph W. Oman to be a lieutenant-commander in the Navy from the 1st day of January, 1905.

Lieuts. (Junior Grade) Harry L. Brinser, Alexander F. H. Yates, and Edgar B. Larimer to be lieutenants in the Navy from the 1st day of January, 1905.

Lieut. Edward T. Witherspoon to be a lieutenant-commander in the Navy, from the 12th day of January, 1905.

Lieut. Commander Abraham E. Culver to be a commander in the Navy, from the 12th day of February, 1905.

Lieut. Commander Henry T. Mayo to be a commander in the Navy, from the 21st day of February, 1905.

Lieut. Commander Charles C. Rogers to be a commander in the Navy, from the 21st day of February, 1905.

Lieut. Horace W. Jones to be a lieutenant-commander in the Navy, from the 21st day of February, 1905.

Commander William P. Day to be a captain in the Navy, from the 12th day of January, 1905.

Lieut. Josiah S. McKean to be a lieutenant-commander in the Navy, from the 12th day of February, 1905.

Lieut. (Junior Grade) James B. Gilmer to be a lieutenant in the Navy, from the 16th day of February, 1905.

## To be passed assistant surgeons.

Jesse W. Backus, from May 18, 1904.

George M. Mayers, from June 1, 1904.

Henry A. Dunn, from June 7, 1904.

Allan Stuart, from June 7, 1904.

Herbert M. Tolfree, from June 14, 1904.

Russell M. Young, from July 2, 1904.

Macomb K. Elmer, from July 18, 1904.

Louis W. Bishop, from September 28, 1904.

Ulys R. Webb, from October 11, 1904.

Charles M. Oman, from December 18, 1904.

## POSTMASTERS.

## FLORIDA.

Charles N. Hildreth, jr., to be postmaster at Liveoak, in the county of Suwanee and State of Florida.

## ILLINOIS.

John C. Adams to be postmaster at Peotone, in the county of Will and State of Illinois.

## INDIANA.

Moses E. Black to be postmaster at Eaton, in the county of Delaware and State of Indiana.

## NORTH CAROLINA.

Jasper Z. Waller to be postmaster at Burlington, in the county of Alamance and State of North Carolina.

## NORTH DAKOTA.

Levi W. Patmore to be postmaster at Drayton, in the county of Pembina and State of North Dakota.

## TEXAS.

Gustave Cranz to be postmaster at Schulenburg, in the county of Fayette and State of Texas.

Nora H. Kelly to be postmaster at Lockhart, in the county of Caldwell and State of Texas.

Sidnan J. Overton to be postmaster at Alice, in the county of Nueces and State of Texas.

## HOUSE OF REPRESENTATIVES.

THURSDAY, March 2, 1905.

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read, corrected, and approved.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bills of the following titles:

H. R. 14522. An act directing the issue of a check in lieu of a lost check drawn by Col. John V. Furey, assistant quartermaster-general, United States Army, in favor of John Wana-maker;

H. R. 15586. An act extending the provisions of section 2301 of the Revised Statutes of the United States to homestead settlers on lands in the State of Minnesota ceded under the act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889;

H. R. 18906. An act authorizing the construction of two bridges across the Ashley River, in the counties of Charleston and Dorchester, S. C.;

H. R. 19118. An act to authorize the Secretary of the Interior to construct dams across the Yellowstone River, in Montana, in connection with irrigation works;

H. R. 19052. An act to incorporate the American Academy in Rome;

H. R. 18752. An act for the resurvey of certain townships in the counties of Rock and Brown, in the State of Nebraska;

H. R. 17102. An act to extend the time within which actions for the recovery of duties paid in Porto Rico may be brought in the Court of Claims under the act of April 29, 1902;

H. R. 19026. An act permitting the building of a dam across the Mississippi River near the village of Bemidji, Beltrami County, Minn.;

H. R. 18975. An act to authorize the levying of certain special assessments;

H. R. 18586. An act to aid in quieting title to certain lands within the Klamath Indian Reservation, in the State of Oregon;

H. R. 18528. An act to provide for the covering into the reclamation fund certain proceeds of sales of property purchased by the reclamation fund;

H. R. 17019. An act granting certain lands to the city of Tacoma, in the State of Washington, for use as a public park;

H. R. 11218. An act setting aside a certain island in Bartlett Lake, Minnesota, as a park and forest reserve.

Senate concurrent resolution 110.

*Resolved by the Senate (the House of Representatives concurring), That there be printed 500 copies of the volume entitled "Treaties and Conventions Concerning China and Korea," of which 200 copies shall be for the use of the Senate and 300 copies for the use of the House of Representatives.*

Also the following resolutions:

*Resolved, That the Senate has heard with profound sorrow of the death of Hon. GEORGE WILLIAM CROFT, late a Member of the House of Representatives from the State of South Carolina.*

*Resolved, That the business of the Senate be now suspended in order that a fitting tribute may be paid to his memory.*

*Resolved, That as an additional mark of respect the Senate shall, at the conclusion of these ceremonies, adjourn.*

Senate concurrent resolution 109.

*Resolved by the Senate (the House of Representatives concurring), That there be printed and bound in cloth 15,000 copies of Bulletin No. 57 of the Bureau of Forestry, being a compilation of all Federal and State forest laws; of which 2,000 shall be for the use of the Senate, 3,000 for the use of the House of Representatives, and 10,000 for the use of the Department of Agriculture.*

The message also announced that the Senate had passed with amendment bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 18641. An act to amend sections 56 and 80 of an act to provide a government for the Territory of Hawaii, approved April 30, 1900.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 7184. An act to provide for an additional associate justice of the supreme court of the Territory of Arizona, and for other purposes; and